

Chapter B New Hampshire

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Readopt with amendments He-P 1600, effective 7/19/2008, to read as follows:

CHAPTER He-P 1600 LEAD POISONING PREVENTION AND CONTROL RULES

PART He-P 1601 PURPOSE AND SCOPE

He-P 1601.01 Purpose.

(a) The lead poisoning prevention and control rules are adopted to implement the requirements of the New Hampshire Lead Poisoning Prevention and Control Act, RSA 130-A.

(b) The lead poisoning prevention and control rules set forth standards and requirements for lead hazard reduction and inspection, laboratory certification, licensing of lead inspectors, risk assessors, and lead abatement contractors, and for the certification of lead abatement workers, lead clearance testing technicians and lead abatement supervisors, as required by RSA 130-A, 15 USC 2681-2692 and 42 USC 4821-4856.

He-P 1601.02 Scope.

(a) The lead poisoning prevention and control rules shall apply to any person subject to the provisions of the New Hampshire Childhood Lead Poisoning Prevention and Control Act, RSA 130-A.

(b) He-P 1600 shall not apply to persons otherwise engaged in maintenance, renovation, or remodeling where the intent is other than abatement or interim control activities as defined in He-P 1605.02, He-P 1605.08, and He-P 1606.03 through He-P 1606.06.

PART He-P 1602 DEFINITIONS

He-P 1602.01 “Abatement” means any measure or set of measures designed to permanently eliminate lead-based paint hazards as defined in 40 CFR Part 745.223 (April 8, 2004 edition), including, but not limited to:

- (a) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with He-P 1603; or
- (b) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to an order of lead hazard reduction or other enforcement action undertaken by the commissioner pursuant to RSA 130-A:5 or RSA 130-A:7, or by a local health department, pursuant to RSA-130-A:11, II.

He-P 1602.02 “Abrasive blasting” means the procedure of removing paint from a surface by using a mechanical force to apply an abrasive material, including sand, grit, or other abrasive material, to a painted surface.

He-P 1602.03 “Available” means reachable by telephone, either directly or through a pager or answering service, at all times when abatement activities are being conducted and able to be present at the work site in no more than 2 hours.

He-P 1602.04 “Bare soil,” as used in the definition of “lead exposure hazard” in RSA 130-A:1, XVI, means soil or sand that is accessible to children or pets and is not covered with grass, sod, other vegetation, asphalt, concrete, decking, or other substantive covering. The term includes soil or sand in a sandbox.

He-P 1602.05 “Blood lead level” means a blood lead measurement obtained by a diagnostic blood lead test conducted by a laboratory certified pursuant to RSA 130-A:12, IV.

He-P 1602.06 “Certification” means the process of being certified.

He-P 1602.07 “Certified” means that a person has received a currently valid certificate from the commissioner and has complied with all certification requirements set forth in this chapter.

He-P 1602.08 “Child” or “children” means “child” or “children” as defined in RSA 130-A:1, I.

He-P 1602.09 “Child care facility” means “child care facility” as defined in RSA 130-A:1, II.

He-P 1602.10 “Commissioner” means “commissioner” as defined by RSA 130-A:1, III or designee.

He-P 1602.11 “Common areas” means a portion of a building that is generally accessible to all occupants and users including, but not limited to, hallways, stairways, laundry and recreational rooms, yards and playgrounds, the building’s exterior, garages and boundary fences.

He-P 1602.12 “Damaged” means failure of a paint film or the underlying substrate which results in the paint becoming detached or is at risk of becoming detached from the substrate, including but not limited to:

- (a) Peeling, flaking, chalking, or scaling paint;
- (b) Plaster which is crumbling; or
- (c) Paint which can be removed with a fingernail.

He-P 1602.13 “Department” means “department” as defined by RSA 130-A:1, IV.

He-P 1602.14 “Deteriorated” means any condition of reduced structural or surface integrity.

He-P 1602.15 “Division of Historical Resources (DHR)” means the “division of historical resources” as defined by RSA 21-K:7.

He-P 1602.16 “Dwelling” means “dwelling” as defined in RSA 130-A:1, V.

He-P 1602.17 “Dwelling unit” means “dwelling unit” as defined in RSA 130-A:1, VI.

He-P 1602.18 “Encapsulation” means “encapsulation” as defined in RSA 130-A:1, VII.

He-P 1602.19 “Enclosure” means the use of rigid durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the living space. The term does not include encapsulants as referred to in He-P 1602.18 above.

He-P 1602.20 “Hazardous waste” means “hazardous waste” as defined in the New Hampshire Hazardous Waste Management Act, RSA 147-A:2, VII.

He-P 1602.21 “Health authority” means “health authority” as defined in RSA 130-A:1, VIII.

He-P 1602.22 “HEPA vacuum” means an industrial or commercial vacuum cleaner equipped with a high-efficiency particulate air filtration (HEPA) capable of filtering out particles of 0.3 microns or greater from a body of air, with 99.97 percent efficiency.

He-P 1602.23 “In-place management” means “in-place management” as defined in RSA 130-A:1, XII.

He-P 1602.24 “Inspection” means any investigation to determine the presence of a lead-based substance, to evaluate an existing or potential lead exposure hazard, or to determine compliance with RSA 130-A and He-P 1600.

He-P 1602.25 “Interim controls” means “interim controls” as defined in RSA 130-A:1, IX.

He-P 1602.26 “Lead-based substance” means “lead-base substance” as defined in RSA 130-A:1, XI.

He-P 1602.27 “Lead-containing waste material” means any waste, debris, dust, or material intended for disposal, including, but not limited to, disposable equipment and clothing that contains lead and was generated by lead-based substance activities regulated under this chapter.

He-P 1602.28 “Lead exposure hazard” means “lead exposure hazard” as defined in RSA 130-A, XVI.

He-P 1602.29 “Lead free” means a designation that a dwelling, dwelling unit, or child care facility does not contain any lead-based substances.

He-P 1602.30 “Lead hazard reduction” means controlling lead exposure hazards through abatement, interim controls or a combination of the 2 measures.

He-P 1602.31 “Lead safe” means a designation after a risk assessment that lead exposure hazards are not present in a given dwelling, dwelling unit, or child care facility.

He-P 1602.32 “Licensure” means the process of obtaining a valid license.

He-P 1602.33 “Multi family dwelling” means a dwelling consisting of 2 or more dwelling units on a single lot including, but not limited to apartment buildings, townhouses, condominiums, shared housing, rooming units and rooming houses.

He-P 1602.34 “Occupant” means “occupant” as defined in RSA 130-A:1, XVII.

He-P 1602.35 “Order of lead hazard reduction” means an order issued by the commissioner requiring all lead exposure hazards be reduced or eliminated from a given dwelling, dwelling unit, or child care facility.

He-P 1602.36 “Owner” means “owner” as defined in RSA 130-A:1, XVIII.

He-P 1602.37 “Participating” or “participate” “in the management of a dwelling, dwelling unit or child care facility” means “participating” or “participate” “in the management of a dwelling, dwelling unit or child care facility” as defined in RSA 130-A:1, XIX.

He-P 1602.38 “Permanently,” as used in the definition of “lead base substance abatement” in RSA 130-A:1, XIII, means that the duration of the method of abatement can reasonably be depended upon to last for 20 years or for the life of the building component which is abated.

He-P 1602.39 “Person” means “person” as defined in RSA 130-A:1, XX.

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He-P 1602.40 “Play area” means an area of frequent soil contact by children of less than 6 years of age as indicated by, but not limited to the following:

- (1) The presence of play equipment such as sandboxes, swing sets and sliding boards;
- (2) Toys or other children’s possessions;
- (3) Observations of play patterns; or
- (4) Information provided by parents, residents, care givers, or property owners.

He-P 1602.41 “Risk assessment” means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a report explaining the results of the investigation and options for reducing lead-based paint hazards.

He-P 1602.42 “Window well” means, for a typical double-hung window, the portion of the exterior window sill between the interior window sill or stool and the frame of the storm window, or when there is no storm window, the area that receives both the upper and lower window sashes when they are both lowered. The term includes window trough.

He-P 1602.43 “XRF performance characteristic sheets” means a document published jointly by the United States Environmental Protection Agency and the United States Department of Housing and Urban

Development describing the methodology for obtaining X-ray fluorescent lead analyzer (XRF) readings taken on specific substrates and calibration check tolerances, and providing information describing the performance of the specific model of XRF instrument, including inconclusive ranges.

PART He-P 1603 LICENSURE AND CERTIFICATION CRITERIA FOR INSPECTION AND ABATEMENT ACTIVITIES

He-P 1603.01 Fee Reductions.

- (a) Pursuant to RSA 130-A:12, I(b), any owner who owns 4 or fewer dwelling units shall not be required to pay a lead abatement contractor licensure fee to perform lead abatement on such owner's dwelling or dwelling units.
- (b) Pursuant to RSA 130-A:10, IV, any owner who owns more than 4 but fewer than 7 dwelling units shall pay an initial lead abatement contractor licensure fee of \$125.00 to perform lead abatement on such owner's dwelling or dwelling units, and a \$125.00 subsequent annual lead abatement contractor licensing fee.
- (c) Owners described in (a) and (b) above shall meet the following criteria for performing such abatement:
 - (1) The owner shall meet lead abatement contractor licensure requirements of He-P 1603.06(b); and
 - (2) The owner shall comply with all procedures for performing lead abatement set forth in He-P 1600, and with all other applicable state, federal, or local health or safety requirements for performing such lead abatement.
- (d) Excluding persons described in (a)–(c) above, any other person who assists, participates in, or performs such abatement work shall be licensed.

He-P 1603.02 Reciprocity.

Lead abatement contractors, lead abatement supervisors, lead abatement workers, lead clearance testing technicians, lead inspectors, and risk assessors who have been licensed, certified, or have received training by another state or by the United States Environmental Protection Agency (EPA) shall be granted reciprocity, provided that the following criteria are met:

- (a) The department finds by review of the certification and licensure requirements or training program of another state or the EPA that:
 - (1) The qualification requirements for the discipline for which the applicant has applied are equivalent to or exceed the provisions of He-P 1603 for that specific discipline; or
 - (2) The content of required training programs for the specific certification or license being applied for is equivalent to or exceeds the provisions of He-P 1611;
- (b) The applicant receives a score of 70% or greater on the reciprocity training program examination as provided by He-P 1611.06;
- (c) With the exception of the lead abatement worker and lead clearance testing technicians, the applicant demonstrates knowledge of the provisions of RSA 130-A and He-P 1600 by receiving a score of 70% or greater on a New Hampshire third party examination as required by He-P 1603.08;
- (d) The reciprocity applicant submits an application in accordance with He-P 1603.03; and
- (e) The applicant meets all other requirements for certification or licensure for the discipline being applied for as set forth in He-P 1603.05, He-P 1603.06, or He-P 1603.07.

He-P 1603.03 Application Procedures.

- (a) Applications for licensing or certification under this part shall be made on application forms supplied by the department.
- (b) Application forms shall:
- (1) Be legibly completed in black or blue ink or typed; and
 - (2) Contain only original signatures made in black or blue ink.
- (c) Any applicant for licensure or certification under this part shall include the following on the application form:
- (1) The name, address, telephone number, and date of birth of the applicant;
 - (2) The name, address, and telephone number of the applicant's principal place of business or employment;
 - (3) A list of all names, trade names, acronyms, and other identifiers under which the applicant does now or has in the past performed lead abatement or lead inspection activities;
 - (4) A list of any pending or completed state, federal, or local enforcement actions against the applicant which resulted from lead-based substance inspection or abatement activities within the 10-year period preceding submission of the application, including:
 - a. Notices of violations or administrative fines;
 - b. Administrative orders or consent decrees;
 - c. Notices of license or certification revocation or denial; and
 - d. Pending or completed civil or criminal actions involving the applicant; and
 - (5) A statement signed by the applicant, certifying all of the following:
 - a. That the applicant meets the qualifications for receiving licensure or certification;
 - b. That the applicant has read and understood the New Hampshire Lead Poisoning Prevention Act and He-P 1600;
 - c. That the application was prepared in conformity with He-P 1603.03; and
 - d. That all information contained, including all supplements attached, is true and correct to the best of the applicant's knowledge and belief.
- (d) Any applicant for licensure or certification under this part shall submit along with the application form, a photocopy of the applicant's current driver's license, passport, or other government issued photo identification.
- (e) For initial applications only, applicants submitting a government issued photo identification, other than a current driver's license or passport as required in (d) above, shall submit a notarized affidavit attesting to the legitimacy of the government issued photo identification.
- (f) All applications shall be accompanied by documentation that the applicant has met all of the training and qualification requirements set forth in He-P 1603.05, He-P 1603.06, and He-P 1603.07 for each type of license or certification for which the application is being submitted.
- (g) Documentation submitted with applications as required in (f) above shall include the following:
- (1) Originals or photocopies of licenses, certificates or other documents which have been issued by another state or jurisdiction;
 - (2) Originals or photocopies of certificates or other documents which have been issued by the training provider for all lead training courses referenced in the application, including documentation of the applicant's passing exam and skills testing scores; and
 - (3) With the exception of the lead abatement worker and lead clearance testing technicians applications:

- a. Verification that the applicant has passed a third party examination within 3 years of the application date; and
- b. Resumes, letters of reference from current or previous employers, or records of work experience.

(h) In addition to the documentation required in (g) above, an initial application for a lead inspector or risk assessor shall also include the following documentation:

- (1) Originals or photocopies of official academic transcripts issued by the relevant educational institution; or
- (2) Originals or photocopies of diplomas issued by the relevant educational institution.

(i) In addition to the documentation required in (g) above, when making application for any lead abatement supervisor or lead abatement contractor subsequent to an initial certification, the applicant shall include a list of all lead abatement projects supervised or otherwise participated in by the applicant within the last 12 months, stating:

- (1) The date of the project;
- (2) The address where the project occurred;
- (3) The name, address, and telephone number of the owner;
- (4) The name and telephone number of the owner's contact person for the project; and
- (5) The name of the supervisor for the contract, if other than the applicant.

(j) In addition to the documentation required in (g) and (i) above, an application for a lead abatement contractor shall include a list of all New Hampshire certified lead abatement supervisors in the applicant's employ at the time of the application.

(k) Applicants shall submit a current, clear, color image of themselves with the application in the form of either:

- (1) A photograph; or
- (2) An electronic image in a format that is compatible with the department's current licensing equipment.

(l) Applicants may apply for certification or licensure in more than one discipline, provided they fulfill the requirements of each discipline for which they are requesting certification or licensure.

(m) Licensing or certification fees as set forth in He-P 1603.01 and He-P 1603.04 submitted in the form of cash or in the form of a personal or certified check or money order made out to "Treasurer, State of New Hampshire" shall accompany the application form.

(n) The department shall consider an application complete when:

- (1) All information and documentation required by (b)-(k) above is included in its entirety; and
- (2) The required licensing or certification fee is included with the application.

(o) Department action on any application for certification or licensure shall be in accordance with RSA 541-A:29 and the following:

- (1) Within 60 days of receiving an application, the department shall:
 - a. Examine the application;
 - b. Notify the applicant of any errors or omissions;
 - c. Request any additional information required under RSA 130-A or He-P 1600; and
 - d. Notify the applicant of the name, official title, address, and telephone number of an employee of the department who may be contacted regarding the application; and
- (2) The department shall approve such application within 120 days after receipt of the application when:
 - a. The application is complete as set forth in (n) above; and

- b. The applicant has met all criteria for licensure or certification in the discipline for which licensure or certification is being sought, as set forth in He-P 1603.05, He-P 1603.06, and He-P 1603.07.
- (p) The department shall deny such application within 120 days after receipt of the application in accordance with the provisions of He-P 1604.01.
- (q) Certificates and licenses shall be issued in writing by the commissioner and expire after one year, unless revoked in accordance with He-P 1604.

He-P 1603.04 Licensing and Certification Fees.

- (a) Except as allowed in He-P 1603.01, a licensing or certification fee in the amount set forth in (b) below shall accompany each license or certificate application form submitted to the department.
- (b) The fee structure for each category of license and certificate shall be as follows:
 - (1) A lead abatement worker and lead clearance testing technicians shall be charged a \$50.00 initial certification fee and a \$50.00 fee for each subsequent annual certification;
 - (2) A lead abatement supervisor shall be charged a \$100.00 initial certification fee and a \$100.00 fee for each subsequent annual certification;
 - (3) A lead inspector shall be charged a \$75.00 initial licensing fee and a \$75.00 fee for each subsequent annual license;
 - (4) A risk assessor shall be charged a \$200.00 initial licensing fee and a \$200.00 fee for each subsequent annual license; and
 - (5) A lead abatement contractor shall be charged a \$250.00 initial licensing fee and \$250.00 for each subsequent annual license.
- (c) The licensing or certification fee shall be refunded by the department when an application has been denied or for any application that is withdrawn by the applicant within 30 days after filing an application or renewal application.

He-P 1603.05 Lead Abatement Worker and Supervisor and Lead Clearance Testing Technicians Certification Requirements.

- (a) Any person seeking certification as a lead abatement worker, a lead abatement supervisor, or lead clearance testing technician shall file an application in accordance with He-P 1603.03 and this section.
- (b) An applicant for lead abatement worker, lead abatement supervisor, or lead clearance testing technician certification shall have obtained a completion certificate for one of the following:
 - (1) A certified training program specific to the discipline being applied for when making application for initial certification; or
 - (2) A certified refresher training program specific to the discipline being applied for when making application for subsequent certifications, such refresher training to be taken at 3-year intervals.
- (c) In addition to the requirements set forth in (b) above, an applicant for lead abatement supervisor shall also:
 - (1) Obtain a score of 70% or greater on a third party examination as required by He-P 1603.08, such exam to be taken at 3-year intervals; and
 - (2) Meet the following experience requirements:
 - a. At least 12 months of work experience as a lead abatement worker; and
 - b. At least 12 months of additional work experience in environmental remediation or the building trades.

He-P 1603.06 Lead Abatement Contractor Licensure Requirements.

- (a) Any person seeking licensure as a lead abatement contractor shall file an application in accordance with He-P 1603.03 and this section.
- (b) An applicant for lead abatement contractor shall meet the following requirements:
- (1) Obtain a completion certificate for one of the following:
 - a. A training program for lead abatement contractors when making application for initial licensure; or
 - b. A refresher training program for lead abatement contractors when making application for subsequent licensure, such training to be taken at 3-year intervals;
 - (2) Obtain a score of 70% or greater on a third party examination as described in He-P 1603.08, such exam to be taken at 3-year intervals; and
 - (3) Have at least 2 years work experience in asbestos, lead, environmental remediation, or in the building trades.

He-P 1603.07 Lead Inspector and Risk Assessor Licensure Requirements.

- (a) Any person seeking licensure as a lead inspector or as a risk assessor shall file an application in accordance with this section and He-P 1603.03.
- (b) An applicant for lead inspector or risk assessor shall have obtained:
- (1) A completion certificate for one of the following:
 - a. A training program specific to the discipline being applied for when making application for initial licensure; or
 - b. A refresher training program specific to the discipline being applied for when making application for subsequent licensure, such training to be taken at 3-year intervals; and
 - (2) A score of 70% or greater on a third party examination as described in He-P 1603.08, such exam to be taken at 3-year intervals.
- (c) In addition to the requirements set forth in (b) above, an applicant for a lead inspector license shall meet the following requirements:
- (1) Have a minimum of a high school diploma or equivalent; and
 - (2) Have performed all aspects of an inspection under the supervision of a licensed lead inspector for a minimum of 15 full inspections and 10 clearance inspections, in accordance with He-P 1608.02, He-P 1605.15, or He-P 1606.07, over at least a 3-month period after completion of the appropriate training program.
- (d) In addition to the requirements set forth in (b) above, an applicant for a risk assessor license shall meet the following requirements:
- (1) Have performed all aspects of an inspection under the supervision of a licensed risk assessor for a minimum of 15 full inspections, 10 clearance inspections, and 5 risk assessments in accordance with He-P 1608.02, He-P 1608.03, He-P 1605.15, or He-P 1606.07, over at least a 3-month period after completion of the appropriate training program; and
 - (2) Have one of the following required combinations of education and experience:
 - a. Combined education and experience consisting of:
 1. A bachelor's degree in environmental science, environmental engineering, environmental remediation, or a related field; and
 2. A minimum of one year of experience by the applicant in lead, asbestos, or environmental remediation work;
 - b. Combined education and experience consisting of:
 1. One of the following:

- (i) Certification or licensure:
 - i. As an industrial hygienist;
 - ii. As a civil, environmental, or structural engineer;
 - iii. As an architect; or
 - iv. In an environmental or scientific field related to lead detection and remediation; or
- (ii) Qualification as an historical architect or architectural historian pursuant to National Park Service Regulations 36 CFR Part 61, Appendix A, (c) and (e); and
- 2. A minimum of 6 months of experience by the applicant in lead, asbestos, or environmental remediation work, including responsibility for project management or design;
- c. Combined education and experience consisting of:
 - 1. An associate's degree, or higher, in one or more of the following disciplines:
 - (i) Environmental project planning;
 - (ii) Environmental management;
 - (iii) Environmental sciences;
 - (iv) Civil, environmental or structural engineering;
 - (v) Construction;
 - (vi) Architecture;
 - (vii) Industrial hygiene;
 - (viii) Occupational health; or
 - (ix) Architectural history or historical architecture, pursuant to 36 CFR Part 61, Appendix A, (c) and (e); and
 - 2. A minimum of 12 months of experience in the lead, asbestos or environmental remediation work, including responsibility for project management or design; or
- d. Combined education and experience consisting of:
 - 1. A high school diploma or equivalent; and
 - 2. A minimum of 2 years of experience in lead, asbestos, or environmental remediation work, including responsibility for project management or design.

(e) As allowed by He-P 1613.04, an applicant for lead inspector or risk assessor may request a variance to the inspection experience required under (c)(2) or (d)(1) above, when the following are true:

- (1) The application has been completed in accordance with He-P 1603.03 and this section; and
- (2) The applicant otherwise qualifies for the discipline for which they are seeking licensure or certification in accordance with this part.

(f) The department shall grant a request for a variance to the inspection experience when the applicant has complied with (e) above and He-P 1613.04.

(g) A lead inspector or risk assessor conducting inspections who has been granted a variance under He-P 1613.04 shall disclose this fact to all consumers of their inspection services.

He-P 1603.08 Third Party Examinations.

(a) With the exception of lead abatement workers and lead clearance testing technicians, all lead professionals seeking certification or licensure under this part shall attain a score of 70% or greater on each part of the third party examination .

(b) The exam shall be administered by a third party other than the accredited training entity.

(c) The third party exam shall consist of:

- (1) A minimum of 100 multiple-choice questions specific to the discipline being applied for; and
 - (2) At least 25 additional questions on the provisions of RSA 130-A and He-P 1600 specific to the discipline being applied for.
- (d) If an applicant attains a score of 70% or greater on a third party exam which has been approved by EPA or another state, the commissioner shall not require the exam be repeated provided that:
- (1) The content of the examination is equivalent to or exceeds the provisions of (c)(1) above; and
 - (2) The applicant attains a score of 70% or greater on a New Hampshire specific third party examination which contains at least 25 questions specific to the provisions of RSA 130-A and He-P 1600.
- (e) Failure to attain a score of 70% or greater on either part of the third party examination shall result in the following:
- (1) After the initial or second examination failure, the applicant shall take a different version of the examination; and
 - (2) After the third examination failure, the applicant shall take the initial training course again along with the initial training course examination.
- (f) The third party examination shall not be taken more than 3 times within a 6-month period.

He-P 1603.09 Functions of Certified and Licensed Persons.

- (a) A certified lead abatement worker shall perform lead abatement activities:
 - (1) In accordance with He-P 1600; and
 - (2) Under the supervision of a lead abatement supervisor, lead abatement contractor, or owner who qualifies under He-P 1603.01.
- (b) A certified lead abatement supervisor shall:
 - (1) Supervise and conduct abatement activities:
 - a. In accordance with He-P 1600; and
 - b. With a written lead exposure hazard reduction plan (LEHRP) as described in He-P 1608.05 and as directed by the employing lead abatement contractor or owner who qualifies under He-P 1603.01;
 - (2) Be present at the abatement site at all times when abatement activities are being performed at a site;
 - (3) Maintain written records as set forth in He-P 1605.07(e); and
 - (4) Ensure that abatement activities are completed in accordance with standards and requirements set forth in the Occupational Safety and Health Administration of the United States Department of Labor (OSHA) Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition).
- (c) A licensed lead abatement contractor shall:
 - (1) Be responsible for the same functions set forth in (b) above for lead abatement supervisors when a supervisor is not otherwise available;
 - (2) Prepare written LEHRPs for abatement projects, interim controls, and in-place management as set forth in He-P 1608.05; and
 - (3) Fulfill the requirements set forth in He-P 1605.04 and He-P 1605.07.
- (d) A licensed lead inspector shall:
 - (1) Conduct inspections for lead-based substances and complete written inspection reports and standard written protocols in accordance with He-P 1608;
 - (2) Conduct clearance inspections in accordance with He-P 1605.15 and He-P 1606.07; and
 - (3) Issue inspection reports pursuant to He-P 1608.01(d) and (e).
- (e) A licensed risk assessor shall:

- (1) Be responsible for the same functions set forth in (d) above for lead inspector;
 - (2) Interpret the results of lead inspections and make recommendations on hazard control options;
 - (3) Prepare written LEHRPs for lead hazard reduction projects as set forth in He-P 1608.05; and
 - (4) Issue certificates of lead free, certificates of lead safe, and certificates of compliance in accordance with He-P 1608.06, He-P 1608.07, and He-P 1608.08.
- (f) No less than one hour after clean-up activities, a certified lead clearance testing technician shall:
- (1) Conduct a visual examination of all work areas to ensure that no visible dust or debris is present following renovations, on-going maintenance, or interim controls;
 - (2) Collect lead dust samples before or following renovations, on-going maintenance, or interim controls;
 - (3) Prepare lead dust clearance reports in accordance with 24 CFR 35.1340(c)(1) and (2) (June 2004 edition); and
 - (4) Be prohibited from:
 - a. Collecting soil samples;
 - b. Conducting random sampling in multi-family dwellings; and
 - c. Conducting any of the activities described in (1)-(3) above in a dwelling or dwelling unit:
 1. That has been issued an order of lead hazard reduction;
 2. In which lead-based substance abatement, as defined in RSA 130-A:1; XIII, has occurred; and
 3. In which the lead clearance testing technician has performed renovations, on-going maintenance, or lead hazard reduction activities.

He-P 1603.10 Conditions of Licensure.

- (a) All licenses and certificates shall expire one year from the date on which the license or certificate was issued, except if such license or certificate has been revoked by the department pursuant to He-P 1604.02, in which case the license or permit shall expire on the effective date of revocation.
- (b) The following conditions apply to all licenses and certificates issued under He-P 1603:
- (1) The license or certificate holder shall comply with all standards set forth in He-P 1600; and
 - (2) Whenever any license or certificate holder becomes aware of any failure to submit relevant facts in an application, or becomes aware of any outdated or incorrect information submitted in an application or report under He-P 1603, they shall report to the department such facts, corrections, or updated information within 30 days of discovery.
- (c) The department shall issue, deny, or revoke certification or licensure granted under this part by following the procedures set forth in He-P 1603 and He-P 1604.

PART He-P 1604 PROCEDURES FOR LICENSURE AND CERTIFICATION DENIAL AND REVOCATION

He-P 1604.01 License or Certificate Denial.

- (a) Denial of any application for certification or license under He-P 1604 shall be in accordance with RSA 541-A:29.
- (b) The department shall deny an application when:
- (1) The applicant has failed to comply with provisions of RSA 130-A or He-P 1600;
 - (2) The applicant has failed, after a request by the department pursuant to RSA 541-A:29, I, to submit all required information or documentation with the application;

- (3) The applicant has submitted false, misleading, or fraudulent information, whether by action or omission;
- (4) The applicant has failed to meet the requirements set forth in He-P 1603 for receiving the certification or license for which the applicant is applying; or
- (5) Enforcement action has been taken by another state or the EPA against the applicant for lead regulation violations resulting in a current license or certificate being revoked or suspended.

(c) Within 10 days of the date of issuance of a license or certificate denial, the applicant may appeal such decision to the department in writing, pursuant to the procedures set forth in He-C 200. The decision of the commissioner shall become final if the applicant fails to appeal such decision within 10 days from receipt of denial by the applicant.

(d) Any applicant denied certification or licensure for the reason of submitting false, misleading, or fraudulent information with an application for said certification or licensure shall not be allowed to make any subsequent application for certification or licensure for a period of one year from the date of denial.

He-P 1604.02 License and Certificate Revocation.

(a) In accordance with the procedures set forth in He-P 1604.03 and RSA 541-A:29 and RSA 541-A:30, the department shall revoke a certificate or license issued under He-P 1603, if the department determines that:

- (1) The license or certificate holder has failed to or is unable to comply with RSA 130-A:3, RSA 130-A:9, RSA 130-A:12; He-P 1603 through He-P 1605, and He-P 1608 through He-P 1611;
- (2) The certificate or license holder has failed to comply with any judicial or administrative order, ruling, or consent agreement issued under He-P 1600 or RSA 130-A;
- (3) The certificate or license holder has submitted false or misleading information with regard to any application or information submittal requirement under He-P 1603, whether by action or omission;
- (4) The license or certificate holder has knowingly committed or participated in fraud or misrepresentation in obtaining, using, or maintaining certification or licensure, including, but not limited to:
 - a. Performing work requiring licensure or certification at a job site without having current and valid licenses or certificates available at the job site for inspection;
 - b. Permitting the duplication or use of his or her certificate or license by another;
 - c. Performing lead-based substance abatement or inspections before all appropriate licensure or certification has been received from the department;
 - d. Obtaining certification through fraud or misrepresentation of training or examination documents;
 - e. Obtaining training documentation through fraud or misrepresentation;
 - f. Gaining admission to or completing a refresher training program through fraud or misrepresentation of initial training program or previous refresher training program documentation; or
 - g. Obtaining certification through fraud or misrepresentation of certification requirements or of any education, training, professional registration, or experience requirements; or
- (5) Enforcement action has been taken by another state or the EPA against the license or certificate holder for violations of lead regulation resulting in a current license or certificate being revoked or suspended.

(b) A decision by the department to revoke a license or certificate issued under He-P 1603 shall not preclude any other enforcement action authorized under RSA 130-A, 15 USC 2681-2692, and 42 USC 4821-4856.

(c) The revocation of a license or certificate shall be for a period of one year, and the affected individual shall not re-apply for any licenses or certificates issued under He-P 1603 during this one-year period.

He-P 1604.03 Procedures for License and Certificate Revocation.

(a) Within 10 days after issuance of any notice of the department's intent to revoke a license or certificate, the aggrieved person may request an adjudicatory hearing before the department, to be conducted in accordance with RSA 541-A:30, II and III, and He-C 200.

(b) In accordance with RSA 541-A:30, III, if the department finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, the department shall order an immediate emergency suspension of a license or certificate pending an adjudicative proceeding, to be conducted in accordance with RSA 541-A:30-36, and He-C 200.

PART He-P 1605 STANDARDS FOR LEAD ABATEMENT***He-P 1605.01 Scope.***

(a) This part shall apply to all persons performing any activity defined in RSA 130-A:1, XIII and He-P 1602.01 as lead abatement.

(b) Such activities shall not include:

- (1) Renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but are designed to repair, restore, or remodel a given structure or dwelling, even though these activities might incidentally result in a reduction or elimination of lead-based paint hazards; or
- (2) Interim controls, operations and maintenance activities, or other measure and activities designed to temporarily, but not permanently reduce lead-based paint hazards.

He-P 1605.02 Abatement Alternatives.

(a) When an order of lead hazard reduction has been issued by the commissioner pursuant to He-P 1613.02, interim controls conducted pursuant to He-P 1606 shall be considered an acceptable alternative to abatement for a period not to exceed 2 years from the issuance of the initial certificate of compliance except as allowed in (c) below.

(b) Interim controls shall only be utilized when approved by the commissioner in response to a written request made in accordance with He-P 1613.04.

(c) When an order of lead hazard reduction has been issued by the commissioner pursuant to He-P 1613.02 in a dwelling unit of a multi family dwelling where no child resides or frequents 10 hours or more a week at the time of inspection and issuance of the order, interim controls may be used for a period exceeding 2 years with the prior written approval of the commissioner in accordance with He-P 1613.04.

(d) When an order of lead hazard reduction has been issued by the commissioner pursuant to He-P 1613.02 and alternative abatement methods other than interim controls are chosen to reduce the lead hazards, the following requirements shall apply:

- (1) Alternative procedures as allowed by RSA 130-A:10, VIII, shall only be utilized when approved by the commissioner in response to a written request made in accordance with He-P 1613.04;
- (2) When the dwelling has been demolished, the owner shall submit to the department:
 - a. A certificate of compliance for soil and any remaining structures which remain under an order of lead hazard reduction, such as an outbuilding; and
 - b. A statement declaring that the unit has been demolished;

- (3) Except as allowed by (4) below, when the dwelling or dwelling unit has been removed from the rental market as allowed by RSA 130-A:8-a, III, the owner shall:
 - a. Obtain a certificate of compliance for interim controls, in accordance with He-P 1606.08, for all areas requiring lead hazard reduction such as the exterior of the building, outbuildings, common areas, and soil; and
 - b. Provide the following documentation to the department on an annual basis:
 1. A statement declaring that the dwelling or dwelling unit has been removed from the rental market and that it shall not return to the rental market until the order has been satisfied; and
 2. For no more than 2 years from the date of original issuance, a current certificate of compliance for interim controls; or
- (4) When a single family dwelling has been removed from the rental market as allowed by RSA 130-A:8-a, III, and is occupied by the owner of the property, the owner shall annually submit a statement to the department declaring that the dwelling continues to be owner occupied and will not return to the rental market until the order has been satisfied.

He-P 1605.03 Abatement Requirements.

- (a) Except as allowed by (d) below, lead-based substance abatement shall only be performed by persons licensed or certified in accordance with He-P 1603.
- (b) Abatement activities shall only be performed when a certified lead abatement supervisor, licensed lead abatement contractor, or owner who qualifies under He-P 1603.01 is present at the site.
- (c) During any abatement activity where there is a lead abatement supervisor present on the site, a licensed lead abatement contractor or owner who qualifies under He-P 1603.01 shall be available to the site, at a minimum, by telephone.
- (d) The following lead-based substance abatement activities may be performed by any person:
 - (1) Surface preparation prior to the application of encapsulants per He-P 1605.09(h);
 - (2) Application of encapsulants per He-P 1605.09(d);
 - (3) Installation of exterior siding;
 - (4) Installation of interior carpeting or other floor covering where paint is not disturbed; or
 - (5) Enclosure of bare soil using asphalt or concrete.

He-P 1605.04 Lead Abatement Contractor Requirements.

- (a) In addition to the other requirements in this part, a lead abatement contractor or owner who qualifies under He-P 1603.01 shall ensure that:
 - (1) The lead hazard reduction work is performed in compliance with He-P 1600;
 - (2) All work areas where employees perform lead abatement activities shall be arranged, equipped, operated, and conducted in a manner which will prevent lead-based substances or lead contaminated materials from escaping from the work areas, in accordance with the requirements set forth in He-P 1605.08 through He-P 1605.14;
 - (3) No employee shall be permitted to eat, drink, smoke, chew gum or tobacco, or apply cosmetics in any lead abatement work area;
 - (4) All employees engaged in lead hazard reduction activities or individuals who enter into work areas where such activities are occurring shall use personal protective equipment appropriate for their given task or work environment in accordance with OSHA 29 CFR 1926.62 (January 8, 1998 edition);
 - (5) All personal protective equipment required by (4) above shall be provided to the employees free of charge; and

- (6) All employees comply with all applicable worker safety and respiratory protection requirements including, but not limited to, OSHA 29 CFR 1926.62 (January 8, 1998 edition).

He-P 1605.05 Notification.

(a) When an order of lead hazard reduction has been issued by the commissioner pursuant to RSA 130-A:5 or RSA 130-A:7, or by a local health department pursuant to RSA 130-A:11, II, the owner, or when it applies, the contractor, shall notify the department in writing of the intended work start date at least 5 days before work begins.

(b) The following information shall be included in full in the notification:

- (1) The name, address, and telephone number of the owner;
- (2) The name of the contractor or risk assessor preparing the LEHRP, and the respective business name, address, and telephone number;
- (3) The name, address, and telephone number of the person or company conducting the lead hazard reduction;
- (4) The address of the property in which the lead abatement activity will be conducted; and
- (5) The scheduled starting and ending dates of the lead abatement activities.

(c) Notification of changes in the date(s) shall be made as follows:

- (1) If the activity will begin on a date earlier than the original start date, the owner or contractor shall submit to the department a revised notification that meets the requirements set forth in (a) and (b) above;
- (2) If the activity will begin later, or end earlier or later than the dates set forth in the original notification, the owner or contractor shall notify the department in writing no later than 24 hours prior to the original start or end date, as applicable; and
- (3) If the activity will not occur on any of the dates set forth in the original or most recent notification revision, the owner or contractor shall notify the department no later than 24 hours prior to the change in schedule.

(d) The owner shall provide written notification to the occupants with access to common areas affected by the lead hazard reduction activities at least 5 days in advance of the proposed lead hazard reduction activities.

(e) The property owner shall include the following in the notification described in (d) above:

- (1) Scheduled dates and work hours for the lead hazard reduction activities;
- (2) Identification of work site(s); and
- (3) Information on any alternative entrance or exit to be used during the activities.

He-P 1605.06 Control of Access.

- (a) Until a clearance inspection has been completed and the dwelling, dwelling unit, or child care facility has been found to pass the criteria set forth in He-P 1605.15, the lead abatement contractor, owner who qualifies under He-P 1603.01, and lead abatement supervisor shall:
- (1) Make certain that all occupants have been relocated outside the work area in accordance with Table 8.1 through Table 8.3 of the United States Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995;
 - (2) Limit access and entry into any lead containment area to the following:
 - a. The owner of the property where the abatement is taking place, or the owner's designee;
 - b. Licensed or certified abatement personnel;
 - c. Any federal, state, or local official with jurisdiction over one or more of the activities within the work area;
 - d. Any lead inspector, or risk assessor conducting clearance testing; and
 - e. An inspector, or risk assessor who represents a lender or financing institution with a security interest in the property undergoing lead abatement; and
 - (3) Not allow non-licensed workers to enter the work area until a preliminary clearance has been obtained as described in He-P 1605.15(c)-(e).
- (b) The lead abatement contractor or owner who qualifies under He-P 1603.01 and the lead abatement supervisor shall ensure that an access control log is maintained for persons who have entered any lead abatement work area as allowed in (a)(2) and (3) above.
- (c) Each person entering and exiting the abatement work area shall provide the following information on the access log:
- (1) Date of entry;
 - (2) Signature of person entering abatement area;
 - (3) Employer of person entering abatement area;
 - (4) Time of entry; and
 - (5) Time of exit.
- (d) The lead abatement contractor, owner who qualifies under He-P 1603.01, and lead abatement supervisor shall ensure that the abatement process does not violate building and fire code requirements for access to the dwelling, dwelling unit, child care facility, or premises.
- (e) Whenever lead abatement activities are being performed in any common or shared area of an occupied structure, facility, dwelling, or premises containing 2 or more dwelling units, the following shall apply:
- (1) The lead abatement contractor shall conduct work in phases, or shall take all other steps possible, to ensure that an uncontaminated passage in compliance with local building and fire code requirements exists for entry and egress from the premises and is available for all occupants; and
 - (2) If it is not possible to preserve an uncontaminated passage for entrance and exit of all occupants from the premises in compliance with applicable building and fire safety codes, either of the following shall apply:
 - a. Abatement work shall be conducted in any common area only when all occupants whose access is affected by the abatement are out of the building during all work periods provided that:
 1. The work area shall be cleaned with a HEPA vacuuming at the end of each work period;
 2. The HEPA vacuuming shall be followed by a wet washing using a general all-purpose or lead specific cleaner; and
 3. After the work area is completely dry, a repeat HEPA vacuuming shall be done until all surfaces are free of visible dust and debris; or

- b. The owner shall comply with the provisions of RSA 130-A:8-a regarding the relocation of building occupants whose access is affected by the abatement for the duration of the work which blocks access.

He-P 1605.07 Record Keeping Requirements.

- (a) Written records shall be prepared and maintained by the lead abatement contractor or the owner who qualifies under He-P 1603.01, for each lead hazard reduction project.
- (b) Such written records shall be retained by the lead abatement contractor or the owner who qualifies under He-P 1603.01, for a minimum of 5 years after the completion of the project.
- (c) When an order has been issued in accordance with He-P 1613.02, the owner shall retain written records for the life of the abatement methods used to control each given hazard.
- (d) Written records as described in (b) and (c) above shall include the following:
- (1) The start-up date and the projected or actual completion dates of the abatement project;
 - (2) The names, addresses, and copies of certificates valid at the time of abatement for all lead abatement supervisors and all lead abatement workers who were involved in the project;
 - (3) A copy of the lead abatement contractor's license valid at the time of abatement;
 - (4) When applicable, a copy of the written LEHRP prepared for the project in accordance with He-P 1608.05;
 - (5) The name and address of each laboratory conducting clearance or monitoring analysis during the project;
 - (6) The date and all the results of all laboratory monitoring and analysis conducted, the sampling locations, and the name of the person performing the analysis;
 - (7) A written description of the lead hazard reduction activities completed to date, including the abatement methods used and the locations of the rooms and components where lead hazard reduction activities occurred;
 - (8) Any waste management, transportation and disposal records required under He-P 1605.14(a); and
 - (9) Copies of any orders of lead hazard reduction, notices of violation or administrative fines, or consent agreements issued in regard to the lead abatement project.
- (e) The following shall be maintained at the project site for the duration of the lead abatement project:
- (1) A 24-hour contact number for the lead abatement contractor or for the owner who qualifies under He-P 1603.01, shall be posted at the entrance of the work site at all times;
 - (2) A written description of procedures to be followed during medical emergencies, including the phone numbers and locations of the nearest hospital or rescue squad;
 - (3) Copies of any written respiratory programs as required by the OSHA Lead in Construction Standard 29 CFR 1926.62 (January 8, 1998 edition);
 - (4) Copies of currently valid certificates and licenses of the contractor and all employees engaged in the lead hazard reduction work;
 - (5) A current copy of He-P 1600 and RSA 130-A;
 - (6) A copy of the LEHRP, developed specifically for the lead reduction activities of this project; and
 - (7) An access control log for persons who have entered any lead abatement work area in accordance with He-P 1605.06 (a)(2)-(3) and He-P 1605.06(c).
- (f) When a licensed contractor has been hired to perform the lead hazard reduction work, the contractor shall prepare a written lead hazard reduction report for the owner, which shall include:
- (1) The start and completion dates of the lead hazard reduction;
 - (2) The name and address of the firm and/or licensed lead abatement contractor under which the abatement is being conducted;

- (3) The name and certificate number of each supervisor and worker assigned to the abatement project;
 - (4) A detailed written description of the work that was performed including:
 - a. Lead hazard reduction methods used;
 - b. Locations of rooms and/or components where lead hazard reduction occurred; and
 - c. All required monitoring of encapsulants as described in He-P 1605.09(1); and
 - (5) Any waste management, transportation and disposal records required under He-P 1605.14(a);
- (g) Retention of the report described in (f) above shall be in accordance with (b) or (c) above.

He-P 1605.08 Abatement Methods.

(a) Except as provided in (e) below, when abatement is conducted, it shall be accomplished by one of the following:

- (1) Replacement of any component with a component free of lead-based substances;
- (2) Removal of the surface coating down to the substrate:
 - a. When a friction/impact hazard exists as defined by RSA 130-A:1, XVI(c), removal of the surface coating may be limited to all friction, impact or abrasion surfaces; or
 - b. When a chewable hazard exists as defined by RSA 130-A:1, XVI(a), removal of the surface coating may be limited to at least 2 inches back from all chewable edges;
- (3) Reversal of all component parts of a woodwork surface such that:
 - a. No surface containing a lead exposure hazard remains exposed; and
 - b. All seams are caulked and sealed;
- (4) Enclosure of the surface containing lead by one of the following methods:
 - a. Enclosure of floor surfaces with carpet, vinyl flooring, ceramic tile, wood or stone, or similar durable material intended for use as a flooring;
 - b. Enclosure of all other interior surfaces with wood, vinyl, or similar durable materials, except that vinyl wallpaper shall not be allowed;
 - c. Enclosure of exterior surfaces with aluminum or vinyl siding after covering with building paper; or
 - d. Enclosure of contaminated soil with asphalt paving or concrete.
- (5) Encapsulation of the surface containing lead in accordance with He-P 1605.09; or
- (6) When not otherwise prohibited by any other building or fire codes or by any local ordinances, permanently fasten window sashes to eliminate friction surfaces.

(b) When the method of abatement is removal of the leaded coating as described in (a)(2) above, the surface coating shall be removed by one of the following methods:

- (1) Off-site dip-tank solvent;
- (2) Scraping with the aid of a caustic paint remover;
- (3) Scraping with the aid of a non-caustic paint remover, which shall not contain methylene chloride when used on the interior;
- (4) Misting the surface with water and wet scraping;
- (5) Controlled low-level heating element, which produces a temperature no greater than 700 degrees Fahrenheit;
- (6) Machine sanding using a sander equipped with a HEPA local vacuum exhaust sized to match the tool to feather edges and prepare substrate for repainting or sealing;
- (7) Machine planing using a planing tool equipped with a HEPA local vacuum exhaust sized to match the tool;
- (8) Abrasive blasting using a HEPA local vacuum exhaust sized to match the tool; or
- (9) Dry scraping within 12 inches of an area that would present an electrical hazard if other methods were used.

(c) When the method of abatement is enclosure as described in (a)(4)a.-c. above, the surface coating shall be enclosed in accordance with the following:

- (1) The surface to be enclosed shall be labeled behind the enclosure with a warning, "Danger: Lead-Based Paint" written in permanent ink with lettering no less than one inch high;
 - (2) The warning shall be placed horizontally and vertically approximately every 16 square feet on large components, such as walls and floors, and every 4 linear feet on small components, such as baseboards;
 - (3) The enclosure material shall be fastened securely at all junctions of floors, walls, ceilings, and other joined surfaces;
 - (4) The enclosure materials shall be fastened and affixed by nailing and cementing or gluing materials, and caulking and sealing the seams, to prevent removal;
 - (5) The enclosure materials shall comply with all local health, housing, and safety codes; and
 - (6) Surfaces so covered shall be maintained so that the covering remains in place and the physical integrity of the covering remains intact.
- (d) The following methods shall be prohibited from use in performing lead-based substance abatement:
- (1) Dry scraping except as allowed by (b)(9) above;
 - (2) Torch or open-flame burning;
 - (3) Propane-fueled heat grids;
 - (4) Heating elements operating above 700 degrees Fahrenheit;
 - (5) Dry abrasive blasting using sand, grit or any other particulate without a HEPA local vacuum exhaust tool;
 - (6) Uncontained hydroblasting or high-pressure wash;
 - (7) Machine sanding, planing or grinding without a HEPA local vacuum exhaust tool;
 - (8) Use of methylene chloride or solutions containing methylene chloride in interior work areas; and
 - (9) Encapsulants that have not been approved under RSA 130-A.
- (e) For properties listed in or determined eligible for the National Register of Historic Places, persons shall take the following precautions when conducting lead-based substance removal:
- (1) When an orbital sander with a HEPA local vacuum exhaust sized to match the tool is used, using such device only as a finishing or smoothing tool;
 - (2) When a belt sander with a HEPA local vacuum exhaust sized to match the tool is used, using such device only on flat surfaces; and
 - (3) When abrasive blasting with a HEPA local vacuum exhaust sized to match the tool, using such method only on cast and wrought iron, steel or concrete substrates under the supervision of a professionally qualified art or architectural conservator.

He-P 1605.09 Encapsulants.

- (a) Any owner who has been issued an order requiring lead hazard reduction pursuant to RSA 130-A:5 and RSA 130-A:7, or by a local health department pursuant to RSA 130-A:11, II, shall use encapsulants pursuant to He-P 1613.04.
- (b) Only encapsulants which have been tested and meet or exceed the American Society for Testing and Materials (ASTM) E 1795-04, Standard Specification for Non-Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings, or ASTM E 1797-04, Standard Specification for Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings, shall be used for lead hazard reduction activities. The commissioner shall maintain a list of all acceptable lead encapsulant products.
- (c) The following shall apply to lead encapsulant product testing and performance:
- (1) Performance compliant to the applicable ASTM standard in (b) above shall be documented in the form of a performance testing report submitted to the commissioner prior to inclusion on the list of lead encapsulation products acceptable for lead hazard reduction activities;
 - (2) Testing shall be conducted by an independent and National Voluntary Laboratory Accreditation Program (NVLAP) certified testing laboratory;

- (3) Submitted performance testing reports shall clearly state the minimum dry film thickness at which the lead encapsulant product meets or exceeds the requirements of the applicable ASTM standard in (b) above for interior and/or exterior use;
 - (4) Lead encapsulation products shall be warranted by the product manufacturer to perform for at least 20 years as a durable barrier between the lead-based paint and the environment in locations or conditions similar to those of the planned application;
 - (5) The manufacturer of the lead encapsulation product shall submit this warranty to the commissioner prior to inclusion on the list of lead encapsulation products acceptable for lead hazard reduction activities;
 - (6) Lead encapsulation products shall be formulated with an FDA-approved anti-ingestant ingredient which deters oral contact with the cured film and which discourages ingestion of delaminated coatings; and
 - (7) The manufacturer of the lead encapsulation product shall submit certification to the commissioner that an anti-ingestant is incorporated into the product formulation prior to inclusion of the product on the list of lead encapsulation products acceptable for lead hazard reduction activities.
- (d) Encapsulants may be applied by any person who complies with the manufacturer's criteria, and in accordance with ASTM E 1796-03 Standard Guide for Selection and Use of Liquid Coating Encapsulation Products for Leaded Paint in Buildings.
- (e) Encapsulant products used for lead hazard reduction activities shall be applied at no less than the minimum dry film thickness at which the product conforms to the interior or exterior requirements, as appropriate for the application exposure, of either the ASTM standards in (b) above, as documented in the performance testing submitted by the product manufacturer to the commissioner.
- (f) The use of encapsulants shall be prohibited on the following:
- (1) Any surface that is not recommended or is restricted by the encapsulant manufacturer; and
 - (2) Any surface, which fails any of the criteria, set forth in ASTM E 1796-03, Section 5.
- (g) Each assessment shall be done for each architectural system or element in the dwelling, dwelling unit, or child care facility where encapsulation is being considered.
- (h) As allowed by RSA 130-A:9, VI, surface preparation may be done by any person when the preparation is limited to the following:
- (1) Cleaning and deglossing with a strong detergent or similar deglossing agent; and
 - (2) Making minor repairs such as filling holes with plaster or spackling.
- (i) Surface preparation shall be conducted by a licensed lead abatement contractor, lead abatement supervisor, lead abatement worker, or an owner who qualifies under He-P 1603.01, in accordance with the provisions of He-P 1605 and Chapter 13 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, when the preparation involves dust generating activities.
- (j) An encapsulation product shall only be applied after all surface preparation, and any other phases of lead abatement, including paint and/or component removal, are complete.
- (k) All encapsulant debris generated through the application process and any unused encapsulant not suitable for application shall be disposed of in accordance with the encapsulant manufacturer's instructions.
- (l) The owner or owner's agent shall perform a visual inspection of the encapsulated surfaces as recommended by the manufacturer and at a minimum of 1 month and 6 months after the application, then annually thereafter.

- (m) If signs of wear or deterioration as described in (o) below are found during re-inspection, monitoring shall be increased to a quarterly basis for the next 6 months, then annually thereafter.
- (n) The owner or owner's agent shall perform a visual inspection upon all changes in tenant occupancy, in addition to a visual inspection at least once annually.
- (o) The visual inspection shall determine whether the encapsulant has maintained its integrity and is not:
- (1) Cracked;
 - (2) Peeling;
 - (3) Sagging;
 - (4) Bubbling;
 - (5) Water damaged or evidencing other moisture related problems;
 - (6) Blistering; or
 - (7) Otherwise altered in a manner, which jeopardizes its protective qualities.
- (p) If the encapsulation fails to maintain its integrity, the surface shall be repaired in accordance with the encapsulant manufacturer's recommendations and He-P 1605 or He-P 1606.
- (q) In addition to the requirements of (p) above, repairs to encapsulated surfaces shall be completed in accordance with He-P 1607.02(a)(6) and (a)(7), and He-P 1607.02(b) and (c).
- (r) The owner shall maintain the following records for the life of the encapsulant:
- (1) Documentation of:
 - a. The name of the encapsulant product applied;
 - b. The location of the encapsulant application; and
 - c. The date of encapsulant application; and
 - (2) Written documentation that the assessments required by (1) above were conducted.
- (s) The owner shall maintain written documentation of the assessments required by (1) above for the most recent 5 year period.
- (t) The owner shall make all records required by (r) above available to the commissioner upon request.
- (u) The owner shall submit all documentation required by (r) and (s) above, to a new owner or entity upon sale or transfer of interest in the property.

He-P 1605.10 Preparation of Interior Work Areas.

- (a) Prior to commencing any lead hazard control activity on the interior of any dwelling, dwelling unit, or child care facility, all interior lead abatement work areas shall be prepared in accordance with Table 8.1 and Table 8.2 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, and the following requirements:
- (1) All plastic sheeting used in containment and barrier systems shall be polyethylene sheeting at least 6-mils thick and securely taped with waterproof tape;
 - (2) All polyethylene sheeting and sealant materials shall be maintained to prevent the release of lead or lead-contaminated materials from the work areas;
 - (3) All furniture and related movable and non-movable objects remaining in the work area shall be covered with polyethylene sheeting, taped securely at all seams and at all junctures with the floor with waterproof tape;
 - (4) When heating, ventilation or air conditioning (HVAC) intake or exhaust vents are located in a lead abatement work area, the HVAC system shall be shut down and vents sealed with polyethylene sheeting and waterproof tape;

- (5) If a break or tear occurs in any polyethylene sheeting used to seal the HVAC system:
 - a. The HVAC system at the site of the break shall be visually inspected by the lead abatement contractor or owner who qualifies under He-P 1603.01; and
 - b. Any visible lead contamination shall be cleaned by a cleaning cycle of vacuuming with a HEPA vacuum, wet washing with a general all-purpose or lead specific cleaner, and a repeat HEPA vacuuming;
- (6) Floor sheeting shall comply with the following:
 - a. Sheeting shall be sized to minimize seams;
 - b. A minimum of 2 layers of 6-mil polyethylene sheeting and sealant materials shall be maintained to prevent the contamination of flooring with lead or lead-contaminated materials; and
 - c. If a break or tear occurs in the bottom sheet of any polyethylene that is covering carpeting, the carpet shall be cleaned prior to the clearance inspection by:
 - 1. A thorough vacuuming with a HEPA vacuum;
 - 2. Shampoo or steam cleaning using a general all purpose or lead specific cleaner; and
 - 3. A second vacuuming with a HEPA vacuum;
- (7) A mini-containment area may be built by surrounding the work area with temporary walls to allow small areas to be addressed without contaminating the entire room; and
- (8) Prior to removing lead-based substances or beginning any other abatement activity, warning signs shall be posted in accordance with the following:
 - a. Signs shall be posted at all entrances and exits of the dwelling, dwelling unit, or child care facility;
 - b. All signs shall be at least 20 inches by 13 inches, and include the phrase "Lead Hazard, Keep Out," in bold lettering at least 2 inches high; and
 - c. In common areas that are to be abated in dwellings occupied by 2 or more households or a child care facility, the signs shall be posted at all entrances and exits of the dwelling or child care facility and include the phrase, "Caution Lead Hazard, Do Not Remain in Work Area Unless Authorized" in bold lettering at least 2 inches high.

(b) In addition to all of the requirements under (a) above, when removal of lead-based substances is used as an abatement method, a worker changing area shall be set up adjacent to the abatement work area.

(c) A changing area shall be constructed in accordance with the Chapter 9 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995.

(d) No person shall exit the abatement work area without removing his or her abatement work clothes, gloves, boot or shoe covers, and respirator in the designated changing area.

(e) The requirements of (b)-(d) above shall not apply when removal of lead-based substances:

- (1) Occurs on a surface of less than 15 board feet of woodwork; or
- (2) Involves the repair of less than 20 square feet of plaster, gypsum board, or comparable material.

He-P 1605.11 Preparation of Exterior Work Areas.

Prior to commencing any lead hazard control activity on the exterior of any structure or premises, the area shall be prepared in accordance with:

(a) Table 8.2 and Table 8.3 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995; and

(b) The following requirements:

- (1) All plastic sheeting used in containment and barrier systems shall be polyethylene sheeting at least 6-mils thick and secured with a minimum of waterproof tape;

- (2) All polyethylene sheeting and sealant materials shall be maintained to prevent the release of lead or lead-contaminated materials from the work areas;
- (3) Clean, cloth drop cloths may be used to cover grass, shrubbery, and other vegetation that may otherwise be damaged if plastic sheeting were used;
- (4) All lead substances and lead dust shall be contained in the work area by measures, which include but are not limited to the following:
 - a. Doors, windows, or other openings on the side of a building where any sanding, removal, or other dust-generating exterior abatement activity is planned, shall be closed and sealed with polyethylene sheeting;
 - b. The ground or floor surface under all work areas shall be covered with polyethylene sheeting as follows:
 1. When sheeting is placed on the ground, it shall be raised at its edges at least 3 inches and shall extend out from the foundation at least 3 feet per story being abated, with a minimum of 5 feet and a maximum of 20 feet to contain all waste;
 2. The sheeting shall be securely fastened to the foundation or exterior wall;
 3. The sheeting shall be sealed at all seams with waterproof tape; and
 4. When sheeting is placed on an exterior floor, it shall be raised at its edges at least 3 inches to contain all waste and shall cover the entire floor;
 - c. If the constant wind speed is over 20 miles per hour, exterior abatement producing dry wastes or lead-containing dust shall not be performed unless vertical shrouds are constructed which contain all lead dust within an area where there is no public access; and
 - d. Any exterior surface that is actively being abated need not be covered with polyethylene sheeting while conducting the abatement work, provided that measures are taken to contain and dispose of liquid or dry waste; and
- (5) All exterior work areas shall be posted with the warning signs required under He-P 1605.10(a)(8).

He-P 1605.12 Cleanup Requirements.

- (a) The lead abatement contractor, owner who qualifies under He-P 1603.01, or lead abatement supervisor shall ensure that the work area and all other areas where lead dust or lead contaminated materials are present are cleaned at the end of each work day and at the completion of the abatement project.
- (b) The lead abatement contractor, owner who qualifies under He-P 1603.01, or lead abatement supervisor shall ensure that all lead debris and lead contaminated materials are stored, managed, and disposed of in compliance with He-P 1605.14.
- (c) Except as provided in (d) below, at the end of each work day, daily cleanup shall consist of:
 - (1) Removing and securing all debris in a designated storage area which is inaccessible to the public;
 - (2) Cleaning all horizontal surfaces with a HEPA vacuum;
 - (3) Inspecting polyethylene sheeting, and patching and repairing, if necessary; and
 - (4) Securing the area to ensure that unauthorized persons do not have access.
- (d) Daily clean-up of the interior shall not be required when all furnishings and belongings have been removed from the unit.
- (e) When applicable, prior to a preliminary inspection, the work areas shall be cleaned as follows:
 - (1) All equipment used in the abatement work shall be cleaned with a general all-purpose or lead-specific cleaner or vacuumed with a HEPA vacuum prior to removal from the work area;
 - (2) All polyethylene sheeting and covering shall be wet misted;
 - (3) With the exception of the bottom layer of polyethylene covering the floor, all misted polyethylene shall be removed, with the sheeting used as a barrier to separate the contaminated area from uncontaminated areas being removed last;

- (4) The misted polyethylene shall be folded in upon itself to capture the dust, placed in a double 4-mil, single 6-mil or equivalent plastic bag and removed from the abatement area in compliance with He-P 1605.14;
 - (5) All lead-containing waste materials, including debris, used sealing tape, polyethylene sheeting, mop heads, sponges, air and vacuum filters, and disposable clothing, shall be placed in a double 4-mil, single 6-mil or equivalent container and disposed of in compliance with He-P 1605.14;
 - (6) All surfaces in the abatement or containment area shall be cleaned by cycle of HEPA vacuuming, wet washing with a general all-purpose or lead-specific cleaner and a repeat HEPA vacuuming; and
 - (7) The sequence of vacuuming, wet cleaning and vacuuming laid out in (e)(6) above shall be repeated until no visible dust or residue is left in the containment area.
- (f) Upon completion of the abatement project, on interior areas of a dwelling, dwelling unit, or child care facility, the area shall be cleaned as follows:
- (1) A final cleanup shall be conducted no sooner than one hour after the completion of lead abatement or surface preparation for repainting or sealing of lead-based substances;
 - (2) The final cleanup shall be performed in accordance with (e) above; and
 - (3) All polyethylene sheeting covering the floor shall be completely removed, and when present, all existing carpeting steam cleaned.

He-P 1605.13 Soil Abatement Standards.

- (a) Abatement of lead exposure hazards in soil where lead levels are found to be equal to or greater than 5,000 parts per million (ppm) shall conform to one of the following:
- (1) The contaminated soil shall be completely excavated to a depth of at least 6 inches and replaced with soil containing less than 200 ppm lead;
 - (2) When the soil below 2 inches from the surface has been found to contain lead below 1,500 ppm, the contaminated soil shall be excavated to a depth of at least 2 inches, the remaining rototilled, and the excavated soil replaced with soil containing less than 200 ppm lead; or
 - (3) The contaminated soil shall be completely enclosed with asphalt or concrete.
- (b) As an alternative to abatement of lead exposure hazards in soil containing less than 5,000 ppm lead, interim control methods may be carried out pursuant to He-P 1606.06 for a period not to exceed 2 years from the issuance of the initial certificate of compliance.
- (c) Soil removal activities shall not be conducted when:
- (1) Constant wind speed exceeds 10 miles per hour; or
 - (2) It is raining in such a manner as to create surface run-off of contaminated soil.
- (d) During the abatement project, surface run-off and the windblown spread of lead-contaminated soil shall be prevented by at least one of the following:
- (1) Keeping bare soil wet during the entire period of abatement; or
 - (2) Temporary covering of exposed sites with polyethylene sheeting with the covering secured in place at all edges and seams.
- (e) Contaminated soil shall be disposed of in accordance with He-P 1605.14.

He-P 1605.14 Waste Disposal.

- (a) All wastes generated by abatement activities, including wastes generated during cleanup and preparation, shall be tested, stored, transported, managed, and disposed of in compliance with federal requirements under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 to 6992k, RSA 147-A, and Env-Wm 400 and Env-Wm 500.

(b) All waste material generated by abatement activities shall be locked in a contained area at the end of each work period.

(c) In addition to the requirements of (a) above, each owner or lead abatement contractor engaged in a lead abatement project shall remove all lead-containing waste material from the site not later than 48 hours after completion of the final cleanup required under He-P 1605.12(f).

He-P 1605.15 Clearance Inspections.

(a) After completion of lead hazard reduction activities on the interior or exterior of a dwelling, dwelling unit, or child care facility, an owner shall have a clearance inspection conducted by a licensed inspector or licensed risk assessor to assess compliance with He-P 1605.

(b) No person performing clearance inspections after completion of lead hazard reductions shall:

- (1) Have performed the lead hazard reduction;
- (2) Be paid, employed, or be otherwise compensated by the lead abatement contractor or the company for which the contractor is affiliated, unless the owner is acting as the contractor in accordance with He-P 1603.01; or
- (3) Be the owner of, an employee of the owner of, or have a financial interest in the dwelling, dwelling unit, or child care facility at which the clearance inspection is being conducted.

(c) A licensed lead inspector or risk assessor may perform a preliminary clearance inspection when all the required lead hazard reduction has been completed, with the sole exception of the actual installation of new components or coatings.

(d) A preliminary clearance inspection shall consist of a visual confirmation that:

- (1) Components to be replaced have been removed;
- (2) All coatings to be removed have been removed to the bare substrate;
- (3) All areas within the work area are visibly free of dust and debris; and
- (4) All other surfaces requiring abatement have been addressed.

(e) Upon passing a preliminary clearance inspection, non-licensed workers may repaint the old components or replace the old components with new components.

(f) The inspector or risk assessor shall comply with the following when conducting a clearance inspection after abatement of surfaces:

- (1) The inspector or risk assessor shall visually examine all surfaces previously identified as a lead-based substance or lead exposure hazards in any lead inspection report, or presumed to be a lead-based substance or lead exposure hazard as defined in He-P 1608.05(d)(2), to determine if:
 - a. All lead exposure hazards have been either abated in accordance with He-P 1605.08 or managed through interim controls in accordance with He-P 1606.03 through He-P 1606.06, and He-P 1606.08;
 - b. There has been a change in condition or function that would create a lead exposure hazard; and
 - c. All visible dust and debris have been removed;
- (2) The inspector or risk assessor shall visually examine all other surfaces in the work areas and within 5 feet of the designated work area to ensure that no visible dust or debris is present;
- (3) The inspector or risk assessor shall visually examine the grounds around the dwelling, dwelling unit or child care facility to ensure that all waste and debris has been removed, and that leaded dust or paint chips were not transferred outside;
- (4) If the inspector or risk assessor determines through the visual assessment required in (f)(1)-(3) above, that lead exposure hazards, visible dust, or debris remain in the work area or adjacent areas:

- a. The clearance inspection procedure shall halt;
 - b. The premises shall be deemed as having failed the clearance inspection; and
 - c. The inspector or risk assessor shall notify the lead abatement contractor and the owner of such finding within 24 hours of the inspection;
- (5) If the inspector or risk assessor determines through the visual assessment required in (f)(1)-(3) above, that lead exposure hazards, visible dust, or debris remain in the work area or adjacent areas during a second or subsequent clearance inspection and finds that a lead exposure hazard still exists, the following shall apply:
 - a. The lead inspector or risk assessor shall notify the department, the lead abatement contractor, and the owner of such finding within 24 hours of the inspection; and
 - b. The department shall take such inspection and enforcement action as necessary in accordance with RSA 130-A, He-P 1612, and He-P 1613 to ensure compliance with RSA 130-A and He-P 1600;
 - (6) If the inspector or risk assessor determines through the visual assessment required in (f)(1)-(3) above, that all lead exposure hazards have been controlled and there is no visible dust or debris remaining in the work area or adjacent areas, the inspector or risk assessor shall:
 - a. After the completion of repainting or varnishing, allow at least 24 hours before collecting surface dust wipe samples; and
 - b. After final cleanup activities have been conducted pursuant to He-P 1605.12(f), allow at least one hour before collecting surface dust wipe samples;
 - (7) Dust sample collection procedures shall be in accordance with He-P 1608.04(b) and (c);
 - (8) When lead hazard reduction activities have occurred where there are no designated non-work areas, dust samples shall be collected from at least one window sill, one window well, and a floor in at least 4 rooms, hallways, or stairwells;
 - (9) When there are fewer than 4 rooms, hallways, or stairwells within an uncontained work area, all rooms, hallways, or stairwells shall be sampled in accordance with (f)(8) above;
 - (10) When lead hazard reduction activities have occurred where there are designated work and non-work areas, dust samples shall be collected from a windowsill, window well, and a floor within the containment area in at least 4 rooms, hallways, or stairwells;
 - (11) In addition to the requirements in (10) above, an additional floor sample shall be collected from outside the containment in an area located in a main traffic pathway and within 10 feet of the entry doorway;
 - (12) When there are fewer than 4 rooms, hallways, or stairwells within the contained work area, all rooms, hallways, or stairwells shall be sampled in accordance with (f)(10) above;
 - (13) When lead hazard reduction activities have occurred on an exterior surface:
 - a. A dust wipe sample shall be collected from an exterior window sill on each floor where exterior work was performed plus an additional window well from a lower floor; and
 - b. At least one dust wipe sample shall be taken from an adjacent horizontal surface in the outdoor living area, including but not limited to a porch floor, railing, exterior sill, or stoop;
 - (14) When lead hazard reduction activities have occurred in common areas, dust wipe samples shall be collected from one floor for every 2,000 square feet and one sample from outside the containment; and
 - (15) When lead hazard reduction activities have occurred in a multi-family dwelling with similarly constructed and maintained dwelling units, random sampling for the purposes of clearance shall be conducted in accordance with 40 CFR Part 745.227(e)(9)(i)-(iii) (April 8, 2004 edition).
- (g) The inspector or risk assessor shall comply with the following when conducting a clearance inspection after hazard reduction activities have occurred on lead contaminated soil:
- (1) When the lead contaminated soil has been removed and replaced pursuant to He-P 1605.13(a), the lead inspector, or risk assessor shall collect random samples from the abated area in accordance with He-P 1608.04(b);
 - (2) The inspector, or risk assessor shall visually examine exterior horizontal and accessible surfaces adjacent to the areas in which soil abatement was conducted to ensure that no visible dust or debris are present; and

- (3) Soil sample collection procedures shall be in accordance with He-P 1608.04(b).
- (h) Analysis of all dust and soil samples shall be conducted pursuant to He-P 1608.04(b) and (c).
- (i) The results of the dust and soil sample analysis shall meet the following clearance standards:
- (1) Lead levels in interior dust shall be:
 - a. Less than 40 micrograms per square foot on floors;
 - b. Less than 250 micrograms per square foot on interior window sills; and
 - c. Less than 400 micrograms per square foot on window wells;
 - (2) Lead levels in exterior dust shall be less than 800 micrograms per square foot; and
 - (3) Lead levels in replacement soil shall be less than 200 ppm pursuant to He-P 1605.13(a).
- (j) When any residual dust level exceeds the clearance standards set forth in (i) above:
- (1) The lead inspector or risk assessor shall notify the lead abatement contractor and the owner of such findings within 24 hours of the receipt of sample results;
 - (2) All the components represented by the failed sample that were not previously tested or failed the dust test, shall be re-cleaned pursuant to He-P 1605.12; and
 - (3) After completing the cleaning described in (2) above, dust samples shall be taken from:
 - a. All components which failed the previous dust test; and
 - b. At least one component not previously tested for each component type that failed, except in the case of a floor where the sample shall be taken from a previously untested floor area .
- (k) In any property where a lead inspector or risk assessor conducts a second or subsequent clearance inspection and finds that dust levels still exceed the clearance standards set forth in (i) above, the following shall apply:
- (1) The lead inspector or risk assessor shall notify the department, the lead abatement contractor, and the owner of such findings within 24 hours of the receipt of sample results; and
 - (2) The department shall take such inspection and enforcement action as necessary in accordance with RSA 130-A and He-P 1612 and He-P 1613 to ensure compliance with RSA 130-A and He-P 1600.
- (l) When a lead inspector or risk assessor conducts a clearance inspection and finds that no lead exposure hazards remain and that dust wipe sample results are below the clearance levels set forth in (i) above, the lead inspector or risk assessor shall notify the lead abatement contractor and the owner of such findings within 24 hours of the receipt of dust wipe sample results.
- (m) In addition to the requirements of (f)-(l) above, a lead inspector or risk assessor who conducts a clearance inspection in accordance with this section shall, within 14 days of receipt of dust wipe sample results, compose a written report detailing the results of the inspection.
- (n) The written clearance inspection report described in (m) above shall include the following information:
- (1) The date of the clearance inspection;
 - (2) The inspector's or risk assessor's printed name and signature;
 - (3) The risk assessor's license number and the license number of any lead inspector who performed the inspection;
 - (4) Name, address, and telephone number of any company or other person employing the inspector or risk assessor in that capacity;
 - (5) Name, address, and telephone number of all building owners;
 - (6) A schematic site plan of the area inspected, showing rooms within the dwelling, dwelling unit or child care facility and their use, common areas, exterior surfaces, and exterior areas including the locations of soil or dust sample collection points;
 - (7) A written verification, including the date, that each surface or component requiring lead hazard reduction has been addressed;

- (8) A written description of the locations of all surfaces, components and soils which were tested or sampled;
- (9) The testing devices and sampling procedures employed;
- (10) The results of all laboratory analyses and other testing of samples taken during the inspection;
- (11) Name, address, and telephone number of all laboratories conducting analysis of collected samples;
- (12) A description of all measures necessary to ensure the continued control of potential lead exposure hazards in the inspected premises pursuant to He-P 1607; and
- (13) A copy of the certificate of compliance issued by a licensed risk assessor pursuant to He-P 1608.08; or
- (14) A copy of the certificate of lead safe issued by a licensed risk assessor pursuant to He-P 1608.07.

(o) An inspector or risk assessor who conducts a clearance inspection shall submit a copy of the written clearance inspection report required by (m) and (n) above to the owner and to the lead abatement contractor within 14 business days of receipt of dust wipe sampling results.

(p) A copy of the written clearance inspection report shall also be submitted by the inspector or risk assessor to the department for any premises subject to an order of lead hazard reduction or other enforcement action under RSA 130-A or He-P 1600, within 14 business days of receipt of dust wipe sampling results.

(q) A copy of the written clearance inspection report shall be provided by the owner to occupants affected by the lead hazard reduction activities within 5 days of receipt of the report by one of the following means:

- (1) Posting of the report in a common area or entry for at least 5 days; or
- (2) Hand delivery of a copy of the report to an adult occupant of each occupied dwelling unit of the property.

He-P 1605.16 Standards for Re-occupancy.

(a) When an order of lead hazard reduction has been issued by the commissioner pursuant to RSA 130-A:5 or RSA 130-A:7, or by a local health department pursuant to RSA 130-A:11, II, the dwelling, dwelling unit, or child care facility shall not be reoccupied until a clearance inspection conducted pursuant to He-P 1605.15 determines that no lead exposure hazards remain and dust wipe sample results meet clearance standards pursuant to 1605.15(i)(1).

(b) An owner may request a variance to the re-occupancy requirements set forth in (a) above when the interior, including common areas, has passed a clearance inspection but lead hazard reductions have not been completed on the exterior.

(c) When an owner requests a variance to the re-occupancy requirements as allowed by (b) above, the request shall be made in accordance with He-P 1613.04(b)-(c), and include proof that the interior of the dwelling unit and interior common areas have passed a clearance inspection.

(d) The commissioner shall approve a request for a variance to the re-occupancy requirements when:

- (1) The request includes all of the information required by (c) above; and
- (2) The request has not been denied in accordance with the criteria set forth in He-P 1613.04(d).

(e) When a variance requested under (b) above is granted by the commissioner, the owner shall be required to complete all exterior lead hazard reductions activities and obtain a certificate of compliance within the time frame determined by the commissioner.

PART He-P 1606 STANDARDS FOR INTERIM CONTROLS

He-P 1606.01 Applicability.

- (a) He-P 1606 shall apply to any owner or person utilizing interim controls as a means of temporarily controlling lead exposure hazards or using in-place management as a means to keep lead-based substances from becoming lead exposure hazards.
- (b) Interim controls and in-place management shall not be used when any condition which both contributes to the lead exposure hazard and is listed in He-P 1606.03(c)-(e) exists in the dwelling, dwelling unit, or child care facility unless the condition is first remedied.
- (c) Owners who have been issued an order of lead hazard reduction may utilize interim controls to reduce lead exposure hazards for a period not to exceed 2 years from the issuance of the initial certificate of compliance except as allowed in (d) below.
- (d) For an order issued on a dwelling unit of a multi family dwelling where no child resides or frequents 10 hours or more a week at the time of inspection and issuance of the order, interim controls may be used for a period exceeding 2 years on the dwelling unit.
- (e) Owners who have been issued an order of lead hazard reduction pursuant to RSA 130-A:7, shall use interim controls only with the permission of the commissioner pursuant to He-P 1613.04.
- (f) When an order of lead hazard reduction has been issued by the commissioner pursuant to RSA 130-A:5, or RSA 130-A:7, or by a local health department pursuant to RSA 130-A:11, II, the owner, or when applicable, the contractor, shall notify the department of the intended work start date in accordance with He-P 1605.05.

He-P 1606.02 Interim Control Standards.

- (a) Prior to commencing any interim control activity on the interior or exterior of any dwelling, dwelling unit, or child care facility, all work areas shall be prepared in accordance with He-P 1605.10(a) or He-P 1605.11(a).
- (b) Upon completion of interim control measures, the work area shall be thoroughly cleaned in accordance with He-P 1605.12(f), and a clearance inspection shall be conducted pursuant to He-P 1606.07.
- (c) Upon completion of interim control measures, the owner shall comply with the procedures for in-place management pursuant to He-P 1607.

He-P 1606.03 Lead-Based Paint Stabilization.

- (a) When implementing interim controls for lead exposure hazards as defined in RSA 130-A:1, XVI (b), lead-based paint stabilization measures shall be used.
- (b) Lead-based paint stabilization shall be conducted only when the substrates of the surfaces to be treated are dry, clean, and in good repair, prior to the application of new paint or other coating.
- (c) The following substrate defects causing lead exposure hazards to exist shall be repaired prior to lead-based paint stabilization:
- (1) Dry rotted or rusty structural, siding, window, door, or railing components;
 - (2) Wall and ceiling plaster that is unkeyed from the underlying lath;
 - (3) Loose siding or trim; or
 - (4) Any other substrate condition that would compromise the effectiveness of the interim control measures.

(d) The following interior conditions causing lead exposure hazards to exist shall be repaired prior to conducting lead-based paint stabilization:

- (1) Visual leaks in waste lines, traps, supply lines, or fixtures above or in rooms undergoing lead-based paint stabilization;
- (2) Clogged condensate drip lines for air conditioners in, above or adjacent to rooms undergoing lead-based paint stabilization;
- (3) Water heaters, dishwashers, and washing machines without drip pans or an overflow mechanism in, above, or adjacent to rooms undergoing lead-based paint stabilization;
- (4) Inadequately ventilated attic spaces as defined by either:
 - a. The International Code Council's (ICC) International Building Code pursuant to RSA 155-A; or
 - b. A local building code adopted by a municipality under RSA 48-A;
- (5) Inadequately ventilated bathrooms, kitchens, and laundry areas as defined by either:
 - a. The ICC's International Building Code pursuant to RSA 155-A; or
 - b. A local building code adopted by a municipality under RSA 48-A.
- (6) Clogged plumbing fixtures or drains in, above, or adjacent to rooms undergoing lead-based paint stabilization;
- (7) Interior windows that are loose or do not close completely;
- (8) Missing or broken window panes;
- (9) Absent, incomplete, or deteriorated caulking around sinks and tubs in the bathroom or kitchen; or
- (10) Any other deterioration or damage to interior components that would compromise the effectiveness of the interim control measures.

(e) The following exterior conditions causing a lead exposure hazard to exist shall be repaired prior to conducting lead-based paint stabilization:

- (1) Damaged or missing flashing on a door or a window;
- (2) Damaged or missing roof flashing;
- (3) Siding in contact with soil;
- (4) Water damaged siding or clapboards;
- (5) Missing or deteriorated trim on a door or window opening;
- (6) Missing or broken window-panes;
- (7) Missing, damaged, or deteriorated window caulking or glazing; or
- (8) Any other deterioration or damage to building components that would compromise the effectiveness of the interim control measures.

(f) Lead-based paint stabilization of interior surfaces shall be conducted in the following manner:

- (1) Loose and flaking paint shall be scraped away from surfaces after misting of the surfaces with water;
- (2) After being allowed to dry, all surfaces shall be vacuumed with a HEPA vacuum until no visible dust or debris remains;
- (3) All surfaces shall be cleaned using a general all-purpose or lead-specific cleaner and water solution and rinsed with clean water;
- (4) After being allowed to dry, all surfaces shall be HEPA vacuumed again;
- (5) All surfaces shall be primed with primer;
- (6) Except as allowed by (7) below, all surfaces shall be covered with at least 2 coats of paint or other coating; and
- (7) When the surface is a wall, a single layer of vinyl wall paper may be used in place of the 2 coats of paint or other coating.

(g) Lead-based paint stabilization of exterior surfaces shall be conducted in the following manner:

- (1) Loose and flaking paint shall be removed by the use of methods allowed in He-P 1605.08(b)(4) and (9);

- (2) All surfaces shall be cleaned using a general all-purpose or lead-specific cleaner and water solution and rinsed with clean water;
- (3) All adjacent horizontal surfaces shall be vacuumed with a HEPA vacuum, cleaned with a general all-purpose or lead-specific cleaner and water solution, and rinsed with clean water; and
- (4) Recoating of surfaces shall be done by:
 - a. Priming all surfaces with primer; and
 - b. Covering all surfaces with at least 2 coats of paint or other coating.

He-P 1606.04 Abrasion, Friction, and Impact Surfaces.

- (a) When implementing interim controls for lead exposure hazards as defined in RSA 130-A:1, XVI (c), the following methods shall be used:
 - (1) When interim controls are implemented on the friction and impact surfaces of windows, the following measures shall be taken:
 - a. The window stop holding the lower sash in place shall be misted with water and removed;
 - b. The lower window sash, and when necessary, the upper window sash and parting bead, shall be misted with water and removed to access other surfaces requiring paint stabilization;
 - c. Repairs shall be made to bring all window components into compliance with He-P 1606.03(c) through (g);
 - d. The window well shall be capped with vinyl, aluminum coil stock, sheet metal flashing, or other impervious material securely affixed to the well with edges sealed and caulked;
 - e. The original or lead-free replacement sash(es) shall be installed, and when applicable, the original or lead-free replacement parting bead shall be installed; and
 - f. The original or lead-free window stop shall be installed and made intact in accordance with He-P 1606.03;
 - (2) In addition to (a)(1) above, aluminum, vinyl, or polyvinyl chloride window channel or slides may be installed;
 - (3) As an alternative to (a)(1)(d)-(f) above, a sash pack, which consists of a unit containing lead-free sashes, channels, and well cover, may be installed;
 - (4) As an alternative to (a)(1) and (2) above, friction and impact surfaces may be eliminated by permanently fastening window sashes shut, when not otherwise prohibited by any other building or fire codes or by any local ordinances;
 - (5) When interim controls are implemented for doors, the following measures shall be taken in the order listed:
 - a. Doorstops shall:
 1. Be misted with water, removed, and replaced with new doorstops;
 2. Be wrapped with vinyl or aluminum coil stock securely affixed to the door frame; or
 3. Have unpainted rubber bumpers securely affixed on the surface of the doorstop to protect the door and doorstop from impacting against one another;
 - b. The door shall be:
 1. Removed and replaced with a new door;
 2. Corrected to reduce rubbing against the doorjamb by:
 - (i) Removing the door from its hinges;
 - (ii) Planing the edges of the door to eliminate friction points, should any exist, with a HEPA local vacuum exhaust sized to match the tool or hand planing a wetted surface;
 - (iii) Taking measures for lead-based paint stabilization in accordance with He-P 1606.03; and
 - (iv) Rehanging and checking the door to verify that all friction points have been eliminated; or
 3. Made intact in accordance with He-P 1606.03 when no friction or impact points exist;
 - c. Measures for lead-based paint stabilization in accordance with He-P 1606.03 shall be taken on all door components; and
 - d. When applicable, a stop shall be installed to prevent a door from striking a wall or baseboard;

- (6) When interim controls are implemented for stair systems, which shall include the treads, risers, balusters, newel posts, handrails, baseboards, and stringers, the following measures shall be taken in the order listed:
 - a. Measures for lead-based paint stabilization in accordance with He-P 1606.03 shall be taken for all surfaces of the stair system; and
 - b. The entire width of the stairs between the stair baseboard and balusters, including any chewable edges of the stair tread shall be covered by securely affixing either:
 - 1. A hard, durable, and cleanable covering on treads such as rubber tread guards; or
 - 2. Carpeting that is secured so it does not cause abrasion;
- (7) When interim controls are implemented for baseboards, the following measures shall be taken:
 - a. Measures for lead-based paint stabilization in accordance with He-P 1606.03 shall be taken for the baseboards;
 - b. A rubber bumper shall be installed to prevent impact from nearby doors; and
 - c. Any shoe moldings found or assumed to contain lead shall be misted with water, removed and replaced;
- (8) When interim controls are implemented for outside wall corners, wooden or plastic corner bead shall be installed;
- (9) When interim controls are implemented for drawers and cabinets, the following measures shall be taken:
 - a. Impact points of doors and drawer covers shall be:
 - 1. Wet planed or planed with a HEPA local vacuum exhaust tool; or
 - 2. Fitted with rubber bumpers installed to reduce impact; and
 - b. Measures for lead-based paint stabilization in accordance with He-P 1606.03 shall be taken for all surfaces;
- (10) When interim controls are implemented for porch, deck, and interior floors, measures for lead-based paint stabilization in accordance with He-P 1606.03 shall be taken for all surfaces, except that the paint or coating used shall be intended for use on flooring; and
- (11) In addition to (a)(10) above, the floor may be securely covered with flooring material.

He-P 1606.05 Chewable Surfaces.

- (a) When implementing interim controls for lead exposure hazards as defined in RSA 130-A:1, XVI, (a), an owner shall implement procedures for lead-based paint stabilization in accordance with He-P 1606.03.
- (b) In addition to (a) above:
 - (1) When interim controls are implemented for baseboards which meet the definition of a lead exposure hazard as defined in RSA 130-A:1 XVI, (a), quarter round or similar molding shall be applied to the top to remove the chewable edge;
 - (2) When interim controls are implemented for interior windowsills, plastic wallpaper corner guards, or a similar material, shall be securely affixed to the top and bottom of the edge to prevent a child from mouthing the sill;
 - (3) Exterior sills less than 4 feet from the ground or floor shall be wrapped with vinyl or aluminum coil stock and securely affixed.

He-P 1606.06 Contaminated Bare Soil.

- (a) As an alternative to abatement of lead contaminated bare soil found to be less than 5,000 ppm, interim control measures may be utilized.
- (b) When implementing interim control measures for bare soil found to be equal to or greater than 400 ppm in children's play areas or 1,200 ppm average in the rest of the yard, one or more of the following methods shall be utilized:

- (1) Coverage of the contaminated soil with one of the following:
 - a. Soil that contains no more than 200 ppm of lead to a depth of at least 6 inches, covered by grass or sod;
 - b. Stone, crushed rock, or gravel to a depth of at least 6 inches;
 - c. Artificial turf;
 - d. Ivies or other spreading plants;
 - e. Thorny or dense shrubbery, sufficient to deter access to the soil by children; or
 - f. Bark mulch or wooden nuggets to a depth of at least 6 inches; and
- (2) Implement land use controls, which may include one or more of the following:
 - a. Fencing; or
 - b. Decks.

He-P 1606.07 Clearance Inspections After Interim Controls.

- (a) When an owner who is under an order of lead hazard reduction has used interim controls, the owner shall have a clearance inspection conducted by a licensed inspector or licensed risk assessor to assess compliance with the order of lead hazard reduction.
- (b) When lead hazards have been controlled with a combination of interim controls and abatement, a clearance inspection shall be completed in accordance with He-P 1605.15.
- (c) When interim controls have been the only method of lead hazard reduction, a clearance inspection shall be conducted in accordance with He-P 1605.15(b), (f)-(q).
- (d) In addition to complying with the requirements of He-P 1605.15(g), when conducting a clearance inspection after interim controls of lead contaminated soil, the inspector or risk assessor shall visually examine the area to determine that the soil is completely covered or otherwise controlled in accordance with He-P 1606.06(b).

He-P 1606.08 Obtaining and Maintaining a Certificate of Compliance for Interim Controls.

- (a) When an order of lead hazard reduction has been issued by the commissioner, the owner shall obtain a certificate of compliance which has been issued in accordance with He-P 1608.08.
- (b) When a certificate of compliance has been issued for a dwelling, dwelling unit, or child care facility in which interim controls have been used in whole or in part to address the lead exposure hazards, the certificate shall expire one year from the date of its issuance.
- (c) When interim controls have been used in whole or in part, a certificate of compliance may be renewed by a licensed risk assessor for a period of one year when the results of a repeated clearance inspection conducted pursuant to He-P 1606.07 are in compliance with all requirements set forth in He-P 1606.03 through He-P 1606.07, and this section, and find all lead exposure hazards remain controlled.
- (d) Interim controls shall be used in whole or in part for a period not to exceed 2 years from the issuance of the initial certificate of compliance for interim controls.
- (e) In accordance with (d) above, a certificate of compliance for abatement shall be obtained by the expiration of the second certificate of compliance for interim controls.
- (f) Notwithstanding (d) above, interim controls may be used in whole or in part for a period exceeding 2 years from issuance of the initial certificate of compliance as approved by the commissioner pursuant to He-P 1613.04.

(g) When interim controls have been implemented on a property in response to an order issued by the commissioner, the owner shall:

- (1) Maintain a current certificate of compliance for a period not to exceed 2 years, or until one of the following is met, whichever is earlier:
 - a. The property is removed from the rental market and all lead hazards within the common areas, as defined by He-P 1602.11, have been abated;
 - b. The property has been demolished and all remaining lead exposure hazards in the soil and structures that remain under the order of lead hazard reduction have been abated;
 - c. The property no longer houses a child care facility and has not been converted into residential housing;
 - d. The owner receives approval from the commissioner to utilize interim controls exceeding 2 years on a dwelling unit of a multi family dwelling where no child resides or frequents 10 hours or more a week at the time of inspection and issuance of the order; or
 - e. All lead hazards have been abated from the property; and
- (2) Submit copies of all renewed certificates to the commissioner within 10 days of receiving the certificate.

(h) When a certificate of compliance for interim controls has been issued to an owner who has conducted interim controls in response to an order of lead hazard reduction, the commissioner shall revoke the certificate of compliance and re-issue the order for lead hazard reduction when a compliance inspection conducted by the commissioner or designee in accordance with He-P 1606.07 reveals that the property no longer meets the requirements of He-P 1606.07(b)-(d).

(i) Any person may request that the department review and validate a certificate of compliance for interim controls by filing a request as set forth in He-P 1608.09(a).

He-P 1606.09 Record Keeping Requirements.

(a) When a licensed contractor has been hired to perform the lead hazard reduction work, the contractor shall prepare and maintain records in accordance with He-P 1605.07.

(b) When interim controls are performed by someone other than a licensed or certified lead professionals, the owner shall prepare and maintain, for the life of the interim control, a record of the locations and methods of the lead hazard reduction method conducted on each component.

PART He-P 1607 STANDARDS FOR IN-PLACE MANAGEMENT

He-P 1607.01 In-Place Management Standards.

(a) In-place management shall be implemented when:

- (1) Lead hazard reduction activities have been completed;
- (2) Lead-based substances remain in the dwelling, dwelling unit, or child care facility; and
- (3) An order has been issued on the dwelling, dwelling unit, or child care facility in accordance with He-P 1613.02.

(b) In-place management may be used by any person as a means of preventing lead-based substances from becoming lead exposure hazards.

(c) When in-place management practices are implemented and an annual clearance inspection is conducted in accordance with He-P 1606.07, the clearance inspection may substitute to fulfill the requirement for one of the semi-annual inspections required in He-P 1607.02(a)(2) below.

- (d) When practicing in-place management of lead-based substances, an owner shall comply with the following:
- (1) The owner or owner's agent shall document in writing the findings of the visual inspection with the following information:
 - a. The date of the visual inspection;
 - b. A written description of all observations made pursuant to He-P 1607.02(a)(1) and (2); and
 - c. The signature of the owner or person conducting the visual inspection;
 - (2) The owner shall maintain the written documentation of the visual inspection for a period of 5 years; and
 - (3) The owner shall provide a copy of the written documentation of the visual inspection to the commissioner upon request by the commissioner.
- (e) When practicing in-place management of lead-based substances, an owner shall not engage in any practice prohibited under He-P 1605.08(d).
- (f) Except as provided in He-P 1607.02(b) below, in-place management shall be used only in areas and on surfaces which do not constitute a lead exposure hazard as defined in RSA 130-A:1, XVI.

He-P 1607.02 In-Place Management Procedures.

- (a) When practicing in-place management of lead-based substances, an owner or owner's agent shall:
- (1) Conduct visual inspections of each dwelling, dwelling unit, or child care facility in which in-place management is being practiced to detect any change in condition of components, surfaces, or areas which may result in the creation of a lead exposure hazard;
 - (2) Conduct visual inspections as required by (a)(1) above:
 - a. At least once every 6 months;
 - b. Prior to re-occupancy after unit is vacated by previous tenant; and
 - c. Upon request of a tenant of a dwelling, dwelling unit, or child care facility;
 - (3) Clean all horizontal surfaces in the area, which are accessible to children by:
 - a. Washing with a solution of a general all-purpose or lead-specific cleaner and water; and
 - b. Rinsing completely with clean water;
 - (4) Conduct cleaning:
 - a. At least once every 6 months; and
 - b. Prior to re-occupancy after unit is vacated by previous tenant;
 - (5) Provide a written notice to the tenants of the dwelling or dwelling unit requesting them to notify the owner or agent of any damaged or deteriorating painted surface;
 - (6) Except as provided in (a)(7) below, respond to the notification of deteriorating or damaged paint within 25 business days; and
 - (7) When a child resides in the affected unit, respond to the notification of deteriorating or damaged paint within 10 business days.
- (b) When a lead exposure hazard occurs and involves less than 6 square feet of surface area, correction of the hazard shall be considered in-place management, and remedied in accordance with He-P 1606.03 through He-P 1606.06.
- (c) When a lead exposure hazard occurs and involves more than 6 square feet of surface area, the property shall be deemed non-compliant and shall be remedied in accordance with He-P 1605 or He-P 1606, including the requirement for a clearance inspection.

PART He-P 1608 LEAD INSPECTION STANDARDS

He-P 1608.01 Inspection Requirements.

- (a) No lead inspection activities shall be performed except by persons licensed or certified to perform such work in accordance with He-P 1603.
- (b) No person performing full inspections or risk assessments shall:
- (1) Perform the lead hazard reduction work on the same dwelling, dwelling unit, or child care facility being inspected or assessed;
 - (2) Be paid, employed, or otherwise compensated by the lead abatement contractor or the company for which the contractor is affiliated, unless the owner is acting as the contractor in accordance with He-P 1603.01; or
 - (3) Be the owner of, an employee of the owner of, or have a financial interest in the dwelling, dwelling unit, or child care facility at which the clearance inspection is being conducted.
- (c) All persons conducting lead inspection activities shall comply with all of the following:
- (1) Standards and requirements set forth in this part; and
 - (2) Standards and requirements set forth in the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition).
- (d) A licensed risk assessor shall develop written inspection procedures containing the following elements:
- (1) A general description of sampling protocols including the selection process of components to be sampled;
 - (2) Testing methods to be used to inspect for the presence of lead-based substances according to type of surface and substrate; and
 - (3) Quality control procedures for all field measurement and sample collection methods.
- (e) An inspector or risk assessor who is conducting any inspection for lead-based substances shall include the following in an inspection report:
- (1) Date of inspection;
 - (2) Address of building(s)/units(s);
 - (3) Date of construction of building(s)/unit(s);
 - (4) Unit number(s), if applicable;
 - (5) A schematic site plan of the area inspected, showing rooms within the dwelling, dwelling unit, or child care facility, common areas, any other relevant structures on the property, including the locations of any soil or dust samples collected;
 - (6) A description of the current use of building(s)/unit(s);
 - (7) Name, address, and telephone number of all building owners;
 - (8) Name, signature, and license number(s) of each licensed inspector(s) or risk assessor(s) conducting the inspection;
 - (9) Name, address, and telephone number of any company or other person employing the inspector(s) or risk assessor(s) in that capacity;
 - (10) Name, address, and telephone number of all laboratories conducting analysis of collected samples;
 - (11) Each testing method and device and/or sampling procedure employed for paint, soil and dust analysis, including quality control data and, if used, the manufacturer, model number, and serial number of any X-ray fluorescent lead analyzer (XRF) device;
 - (12) A precise written description of all locations tested or sampled;
 - (13) All data collected using on-site testing devices including calibration check readings;

- (14) If more than one XRF unit is used to conduct an inspection, the results of each surface and representative area tested shall be annotated on the report to indicate the specific XRF unit used for testing;
 - (15) All results of laboratory analysis on collected samples including paint, surface coatings, soil and dust samples;
 - (16) The condition of all surfaces, which were investigated, tested, or sampled, including whether such surfaces were damaged or deteriorated, as defined in He-P 1602.12 and He-P 1602.14;
 - (17) An indication of which surfaces meet the definition of a lead-based substance, and which surfaces meet the definition of a lead exposure hazard;
 - (18) When the report is part of a risk assessment, recommendations regarding the need for additional testing;
 - (19) A signed certification stating, "I hereby certify that sampling and analyses have been conducted pursuant to He-P 1608.04 and accurately represents the conditions in the areas tested on this date";
 - (20) The written inspection procedures as required in (d) above;
 - (21) A copy of the risk assessment report in accordance with He-P 1608.03(c); and
 - (22) A statement regarding the property owner's requirement to disclose lead hazards in accordance with 40 CFR Part 745.107 (June 1, 1996 edition).
- (f) If, during the course of an inspection for lead-based substances, an inspector or risk assessor becomes aware that lead hazard reduction activities have not been done in accordance with RSA 130-A or He-P 1600, and such activities endanger the public, the inspector or risk assessor shall contact the department within 48 hours of the discovery.
- (g) A notice made to the department in accordance with (f) above, shall include the following information:
- (1) The address where the violation took place;
 - (2) The nature of the violation;
 - (3) The date the violation occurred, if known; and
 - (4) The date the violation was discovered by the person submitting the notice.
- (h) When a lead clearance testing technician is conducting any inspection activities, the following information shall be recorded:
- (1) Date of inspection;
 - (2) Address of building(s)/unit(s);
 - (3) Date of construction of building(s)/unit(s);
 - (4) A description of the current use of building(s)/unit(s);
 - (5) Name, address, and telephone number of all building owners;
 - (6) Name, signature, and certificate number(s) of each lead clearance testing technician conducting the inspection;
 - (7) Name, address, and telephone number of any company or other person employing the lead clearance testing technicians in that capacity;
 - (8) Each testing method and/or sampling procedure employed for dust analysis, including quality control data;
 - (9) A precise written description of all locations tested or sampled; and
 - (10) The condition of all surfaces, which were investigated, tested, or sampled, including whether such surfaces were damaged or deteriorated, as defined in He-P 1602.12 and He-P 1602.14.

He-P 1608.02 Requirements for Full Inspections.

- (a) A full inspection shall be performed only by a licensed lead inspector or risk assessor, and in accordance with He-P 1600.

- (b) When performing a full inspection, testing for lead-based substances shall be done on all surfaces representative of each type of painted and varnished component in the dwelling, dwelling unit, or child care facility.
- (c) If interior or exterior components of the same type have, or are suspected to have, a different painting history, each component shall be tested.
- (d) Soil samples shall be collected and analyzed in accordance with the procedures set forth in He-P 1608.04(b) when bare soil is located in any of the following areas:
 - (1) In a child's play area;
 - (2) Within 5 feet of the foundation area; or
 - (3) Within 100 feet of the foundation when the total surface areas of the bare soil is equal to or greater than one square yard or 9 square feet.

He-P 1608.03 Requirements for a Risk Assessment.

- (a) A risk assessment shall be performed only by a licensed risk assessor, and in accordance with He-P 1600.
- (b) A risk assessment shall be conducted as follows:
 - (1) Background information shall be collected regarding the physical characteristics of the building, and occupant use patterns that might cause lead-based paint exposure;
 - (2) A visual inspection shall be conducted to locate the existence of potential lead exposure hazards including paint which is located on chewable, friction or impact surfaces, or is in a deteriorated condition, and to assess the extent and causes of any deteriorated paint or lead exposure hazards;
 - (3) Each surface identified to be a potential lead exposure hazard by the visual inspection described in (b)(2) above and having a distinct paint history, shall be tested for the presence of lead in accordance with He-P 1608.04;
 - (4) Single surface or composite dust samples shall be collected and analyzed in accordance with procedures set forth in He-P 1608.04(b) and (c) from the following areas:
 - a. In single family dwellings, the samples shall be collected from the floor and a window well or a windowsill when a well is not accessible, in each living area, hallway and stairwell where a child under the age of 6 years is likely to come in contact with dust; or
 - b. In dwelling units, or child care facilities, the samples shall be collected from the floor, and a window well or a windowsill when a well is not accessible, in living and common areas to the dwelling unit or child care facility where a child under the age of 6 years is likely to come in contact with dust; and
 - (5) Soil samples shall be collected and analyzed in accordance with the procedures set forth in He-P 1608.04(b) when bare soil is located in any of the following areas:
 - a. In a child's play area;
 - b. Within 5 feet of the foundation area; or
 - c. Within 100 feet of the foundation when the total surface areas of the bare soil is equal to or greater than one square yard or 9 square feet.
- (c) The risk assessor shall prepare a risk assessment report, which shall include the following information:
 - (1) All information required by He-P 1608.01(d);
 - (2) Any background information collected pursuant to He-P 1608.03(b)(1);
 - (3) The results of any previous inspections or analyses for the presence of lead-based paint, or other lead exposure hazards;
 - (4) Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further action;
 - (5) A description of interim controls or abatement options for each type of lead exposure hazard previously identified; and

- (6) If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

He-P 1608.04 Sampling and Analysis Methods.

- (a) Testing for the presence of lead in paint shall be conducted by one or more of the following methods:
- (1) Field measurement by XRF using standards set forth in Appendix 14.1 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, and the 1997 revision of Chapter 7;
 - (2) Laboratory analysis of paint chips by atomic absorption spectrometry using standards set forth in Appendix 14.1 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, and the 1997 revision of Chapter 7; or
 - (3) Any testing method using recognized published procedures or methods developed and validated by the laboratory using assayed materials, inter-lab comparisons or proficiency test samples.
- (b) All collection and analysis of samples from paint chips, dust, or other media shall comply with standards set forth in Appendix 13.1 through Appendix 13.5 and Appendix 14.1 through Appendix 14.3 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, and the 1997 revision of Chapter 7.
- (c) When composite dust sampling is conducted, the samples shall comply with 40 CFR Part 745.63 (January 5, 2001 edition) and 40 CFR Part 745.227 (h)(3)(i) (April 8, 2004 edition) and:
- (1) Consist of at least 2 subsamples;
 - (2) Contain subsamples from the same type of component;
 - (3) Consist of no more than 4 wipes per sample; and
 - (4) Be calculated by dividing the gross lead concentration by half the number of subsamples and comparing the result to the applicable clearance levels for lead in dust on floors, interior windowsills and window wells.
- (d) Laboratories performing lead analyses on environmental samples shall have successfully participated in an EPA sanctioned or recognized proficiency test program, including but not limited to the Environmental Lead Proficiency Analytical Testing (ELPAT) Program or the EPA National Lead Laboratory Accreditation Program (NLLAP).
- (e) The following requirements shall apply if field measurements by XRF are used:
- (1) The user shall have a currently valid radioactive materials license for the XRF instrument used, issued in accordance with He-P 4000;
 - (2) The calibration of each XRF unit shall be verified as follows:
 - a. All verification of calibration of XRF instruments shall be conducted and verified against the manufacturer's standards for that instrument in accordance with the manufacturer's specifications for that instrument;
 - b. Verification of calibration of each XRF instrument used shall be conducted at the beginning and end of each inspection and at intervals throughout the inspection in accordance with manufacturer's specifications for the instrument;
 - c. If the XRF instrument does not produce a reading within the manufacturer's specified tolerance for each standard, the instrument shall be removed from use until such time as the unit is again operating within the manufacturer's specified tolerance for each standard; and
 - d. The results of all verification of calibration shall be recorded on the inspection report;
 - (3) Except as provided in (e)(4) below, XRF measurements shall be adjusted to compensate for substrate interference utilizing substrate correction protocols set forth in the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, 1997 revision of Chapter 7;

- (4) Adjustment of XRF measurements to compensate for substrate interference shall not be required when the "XRF Performance Characteristics Sheets" (3rd edition) indicate that substrate corrections are not necessary; and
- (5) Surfaces shall not be considered to contain a lead-based substance when the XRF reading is less than 1.0 mg/cm² and the manufacturer's recommended tolerance of the machine is factored into the calculation of the reading.

(f) When conducting full inspections in multifamily housing that has more than one dwelling unit or child care facility in the same building, complex, or development, the inspection shall be conducted in accordance with the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, 1997 revision of Chapter 7.

He-P 1608.05 Lead Exposure Hazard Reduction Plans (LEHRPs).

- (a) A LEHRP shall be prepared or approved by a licensed risk assessor, a licensed lead abatement contractor, or an owner who qualifies under He-P 1603.01.
- (b) When an order of lead hazard reduction has been issued on the dwelling, dwelling unit, or child care facility, a LEHRP shall be required before any abatement or interim control work is performed.
- (c) A LEHRP shall be based on the performance and review of a full inspection to comply with an order of lead hazard reduction.
- (d) Except as required by (b) and (c) above, LEHRPs shall be based upon one of the following:
 - (1) The performance of a full inspection or risk assessment, or review of a full inspection or risk assessment report, completed in accordance with He-P 1608.02 or He-P 1608.03; or
 - (2) The presumption that:
 - a. All painted surfaces contain lead-based substances unless proven otherwise by testing conducted according to this section; and
 - b. All painted surfaces, which meet the definition of a lead exposure hazard as a result of the condition and location of the painted surfaces, will be considered lead exposure hazards.
- (e) A licensed risk assessor or licensed lead abatement contractor, after consultation with the owner, or owner who qualifies under He-P 1603.01, shall be responsible for preparing a written LEHRP in accordance with any order issued under He-P 1613.02, which contains the following elements:
 - (1) Actions to be taken to abate, or manage by interim controls and in-place management, all lead exposure hazards identified in the full inspection;
 - (2) Measures to be taken to ensure worker protection, which shall include hazard recognition and control procedures;
 - (3) Measures to be taken to ensure the protection of building occupants from exposure to any lead-based paint hazards by describing procedures that will be taken during all abatement, interim control, and in-place management activities; and
 - (4) Measures to isolate and contain all abatement and interim control areas to prevent the release of lead-based substances and to ensure compliance with He-P 1605.10 and He-P 1605.11.

He-P 1608.06 Certificates of Lead Free.

- (a) A licensed risk assessor shall issue a certificate of lead free to the owner of a dwelling, dwelling unit, or child care facility when:
 - (1) No lead-based paints or similar coatings, lead contaminated dust, or lead contaminated soils are found as a result of:

- a. XRF testing performed in accordance with standards set forth in Appendix 13.1 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995, and the 1997 revision of Chapter 7;
 - b. Dust sampling of every room in the unit performed in accordance with He-P 1608.04(b) or (c) and the dust sampling protocol standards set forth in Appendix 13.1 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995; and
 - c. Soil sampling performed in accordance with He-P 1608.04(b) and with the soil sampling protocol standards set forth in Appendix 13.3 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995; or
- (2) The following requirements are met:
- a. No lead-based substances are found in accordance with (a)(1)b. and c. above; and
 - b. At least one of the following is true:
 - 1. An architect or project engineer responsible for the construction of a dwelling, dwelling unit, or child care facility built after January 1, 1970, signs a statement that no lead-based substance was used as a building material in the building; or
 - 2. An architect or project engineer responsible for the rehabilitation of a dwelling, dwelling unit, or child care facility, signs a statement declaring that:
 - (i) All interior components of the building, which contained lead, have been removed;
 - (ii) The unit has undergone complete rehabilitation of interior and exterior components and surfaces; and
 - (iii) No lead-based substance was used as a replacement building material.
- (b) Certificates shall include the following:
- (1) For certificates issued pursuant to (a)(1) above:
 - a. The inspection information required by He-P 1608.01(d) and (e);
 - b. The following statement:

“I further certify that at the time of this inspection all dust, soil, and surface coating lead levels of this building, or those portions of said property subject to He-P 1600, have been found to be lead free in accordance with RSA 130-A and He-P 1608.06(a)(1). This certification applies only to dust, soil, and the building components and is not intended to apply to plumbing fixtures or furniture present in the unit.”; and
 - c. The printed name, signature, date, and license number of the licensed risk assessor making the above statement; or
 - (2) For certificates issued pursuant to (a)(2) above:
 - a. A copy of all dust and soil sampling analysis results;
 - b. A copy of the statement of the architect or project engineer provided pursuant to (a)(2)b. above; and
 - c. The following statement:

“I hereby certify that sampling and analyses conducted pursuant to He-P 1608.06 (a)(2)a. was performed in accordance with He-P 1608.04 and accurately represents the conditions in the areas tested on this date. I further certify that no lead-based substances were detected upon analysis of dust and soil conducted pursuant to He-P 1608.04(b) and (c). I further certify that I have reviewed the attached statement declaring that no lead-based substance was used as a building material in the building. Pursuant to RSA 130-A and He-P 1608.06, this building meets the standard of lead free and is certified as lead free. This certification applies only to dust, soil and building components and is not intended to apply to plumbing fixtures or furniture present in the unit.”; and
 - d. The printed name, signature, date, and license number of the licensed risk assessor making the above statement.

He-P 1608.07 Certificates of Lead Safe.

- (a) Except as provided by He-P 1608.08, a licensed risk assessor shall issue a certificate of lead safe to the owner of a dwelling, dwelling unit, or child care facility when a risk assessment, performed in accordance with

He-P 1608.03, or a clearance inspection, performed in accordance with He-P 1605.15, has determined that all lead-based substances are being controlled or are in a condition or location that does not pose a lead exposure hazard.

- (b) When a certificate of lead safe is issued, it shall include the following:
- (1) A copy of the risk assessment or clearance inspection report prepared in accordance with He-P 1608.03(c) and He-P1605.15(m), respectively;
 - (2) The following statement:
 “I hereby certify that sampling and analyses conducted pursuant to He-P 1608.04 was performed in accordance with He-P 1608.03 or He-P 1605.15 and accurately represents the conditions in the areas tested on this date. I further certify that no lead exposure hazards were detected during the inspection.”;
 - (3) In addition to (2) above, one of the following statements:
 - a. When abatement has been the only method used to control the lead hazards:
 “This certificate of lead safe for this dwelling, dwelling unit, or child care facility shall remain in effect as long as there continue to be no lead exposure hazards present, and all encapsulants or enclosures remain in place and undamaged.”; or
 - b. When interim controls have been used in whole or in part to control the lead exposure hazards:
 “This certificate of lead safe for this dwelling, dwelling unit, or child care facility shall remain in effect for one year as long as there continue to be no lead exposure hazards present.”; and
 - (4) The signature and license number of the licensed risk assessor making the above statements and the date the signature was made.

(c) When damage occurs which creates a lead exposure hazard and the surface area is less than 6 square feet, the certificate shall remain in effect as long as the damage is corrected in accordance with He-P 1607.02(b) within 10 business days from the time the damage was noted.

(d) If a licensed inspector, a risk assessor, or the commissioner finds that the interior or exterior of the unit, any common areas, or any exterior soil fails to meet the standards for maintenance of the certificate of lead safe pursuant to (c) above, said inspector, risk assessor, commissioner, or designee shall notify the owner of said failure by certified mail within 10 days of such a finding.

(e) A certificate may be issued for specific areas of a dwelling, dwelling unit, or child care facility when lead hazard reduction activities have not been completed on the entire premises or when weather conditions, such as snow accumulation, prohibits the verification of soil conditions.

He-P 1608.08 Certificates of Compliance.

(a) When an order of lead hazard reduction has been issued by the commissioner, a licensed risk assessor shall issue a certificate of compliance to the owner of a dwelling, dwelling unit, or child care facility when the results of the clearance inspection conducted in accordance with He-P 1605.15 meet the standards of He-P 1605.15(f) and (i).

- (b) The certification shall include the following:
- (1) A copy of the clearance inspection report prepared in accordance with He-P 1605.15(m); and
 - (2) A certification statement as described in He-P 1608.07(b)(2) through (b)(4).

(c) The risk assessor shall submit a copy of the certificate of compliance to the department within 10 days of issuing the certificate to the owner.

- (d) When damage occurs which creates a lead exposure hazard and the surface area is less than 6 square feet, the certificate shall remain in effect as long as the damage is corrected in accordance He-P 1607.02(b) within 10 business days from the time the damage was noted.
- (e) If a licensed inspector, a risk assessor, the commissioner, or designee finds that the interior or exterior of a unit, any common areas, or any exterior soil fails to meet the standards for maintenance of the certificate of compliance pursuant to (d) above, the inspector, risk assessor, commissioner, or designee shall notify the owner of the failure by certified mail within 10 days of such a finding.
- (f) A certificate of compliance for the interior shall not be issued until all interior and interior common areas have been brought into compliance for the dwelling, dwelling unit, or child care facility.
- (g) A certificate of compliance for the exterior shall not be issued until the exterior, exterior common areas, and bare soil for the dwelling, dwelling unit, or child care facility, have been brought into compliance.

He-P 1608.09 Review and Validation of Certificates.

- (a) Any person may request the department to review and validate any certificate issued pursuant to He-P 1608, in accordance with RSA 130-A:10, III, by filing a written request with the department including:
- (1) The name and address of the requester;
 - (2) The address and location of the dwelling, dwelling unit, or child care facility that is the subject of the request;
 - (3) The name and address of the owner;
 - (4) The name and address of the licensed inspector or licensed risk assessor who performed the inspection; and
 - (5) A copy of the certificate, which is requested to be reviewed.
- (b) Within 60 days after receiving a request for review of a certificate, the department shall contact the requester, the owner, and the risk assessor who prepared the certificate and conduct a site visit and investigation, as necessary, to determine the existence of any lead exposure hazard, in accordance with the procedures set forth in He-P 1613.05.
- (c) The department shall not conduct a review and validation for the following:
- (1) Buildings which do not meet the definition of a dwelling, dwelling unit, or child care facility; or
 - (2) Dwellings, dwelling units, or child care facilities built after 1978.

He-P 1608.10 Record Keeping.

- (a) Copies of all reports and plans required under this part shall be maintained by the owner of the residence or building for the duration of ownership of the property and made available at the time of sale to subsequent property owners, and by any person who conducted the inspection, for no less than 5 years.

PART He-P 1609 LABORATORY CERTIFICATION AND STANDARDS

He-P 1609.01 Applicability.

He-P 1609 shall apply to any laboratory, which offers or engages in the performance of tests to detect or measure lead in human body fluids or tissues.

He-P 1609.02 Prohibitions.

No laboratory shall offer or engage in performing tests to detect or measure lead in human body fluids or tissues without first receiving all certifications required under this part.

He-P 1609.03 Laboratory Certification.

- (a) All laboratories performing blood lead testing on adults or children residing in New Hampshire shall comply with 42 CFR Part 493 Medicare, Medicaid and Clinical Laboratory Improvement Amendments (CLIA) Program, Laboratory Requirements Relating to Quality Systems and Certain Personnel Qualifications, and, if applicable, He-P 808.
- (b) A laboratory certified in accordance to (a) above shall hold a current CLIA certificate appropriate to the level of testing provided by the laboratory.
- (c) The department's action on any application for laboratory certification as described in He-P 808 shall be in accordance with RSA 541-A:29.
- (d) Certifications as described in (c) above shall be issued in writing by the department and shall expire after one year, unless revoked in accordance with He-P 1604.02 and He-P 1604.03.

He-P 1609.04 Laboratory Analytical Standards.

- (a) In addition to the requirements of this section, the laboratory shall comply with the requirements of He-P 808.
- (b) Testing for the detection of lead poisoning shall be performed on a specimen by one of the following methods:
- (1) Anodic stripping voltammetry, an analytical method used to determine the concentration of metals in solutions such as lead in blood;
 - (2) Flame or graphite furnace atomic absorption spectrometry with background correction, an analytical method of determining the concentrations of elements in a variety of samples such as lead in blood; or
 - (3) A method proven to be equivalent in accuracy, precision, and sensitivity to other methods listed in (1) and (2) above.
- (c) Laboratories performing lead analysis in accordance with (b) above shall successfully participate in a commercial proficiency testing program for each method employed.
- (d) If the quantity of the specimen is sufficient, a repeat test using one of the methodologies listed in (b) above shall be performed on all specimens with blood lead results greater than or equal to 10 micrograms per deciliter within one business day of obtaining the initial test results.

PART He-P 1610 LABORATORY REPORTING OF RESULTS

He-P 1610.01 Applicability.

- (a) Any laboratory performing blood lead analysis on adults or children residing in New Hampshire shall report the results of such tests to health care providers and to the commissioner in compliance with He-P 1610.
- (b) Whenever a laboratory refers a blood lead sample to another laboratory for analysis, the laboratories shall agree on which laboratory will file a report in compliance with this section, but such an agreement shall not alter the legal responsibility of both laboratories to ensure that a report is made in compliance with He-P 1610.
- (c) In accordance with RSA 141-A, every physician or other health care provider who assesses, diagnoses, or treats a person with an elevated blood lead level shall report the same to the department by telephone, mail, or electronic transmission in accordance with He-P 1610.02(a)-(e) below.

He-P 1610.02 Reporting Requirements.

- (a) Laboratories shall report to the commissioner the results of each blood lead analysis conducted on New Hampshire residents by one of the following means:
 - (1) Submitting a paper copy of the report; or
 - (2) Submitting an electronic report in accordance with (e) below.
- (b) All reports required under (a) above shall be in a format secure from inadvertent or unwarranted intrusion to maintain patient confidentiality.
- (c) Laboratories shall report all blood lead test results in micrograms per deciliter.
- (d) Laboratories shall supply the following information to the department in each blood lead analysis report:
 - (1) The name of the patient;
 - (2) The patient's date of birth;
 - (3) The patient's race and ethnicity;
 - (4) The patient's gender;
 - (5) The patient's street address, including the town or city of residence;
 - (6) The name of the patient's parent or guardian if the patient is aged 15 years or younger;
 - (7) The occupation of patients aged 16 years or older;
 - (8) The name of a patient's employer when the blood lead test is performed as a requirement of the patient's occupation;
 - (9) Whether the specimen is a venous or capillary sample;
 - (10) The submitting laboratory's name, address, and telephone number;
 - (11) The name of the referring laboratory, if applicable;
 - (12) The name and address of the health care provider ordering the test;
 - (13) The date of the sample collection;
 - (14) The date of the sample analysis;
 - (15) The method of analysis;
 - (16) The blood lead analysis results; and
 - (17) If conducted, the results of erythrocyte protoporphyrin analysis and zinc protoporphyrin analysis used to identify anemia and elevated blood lead levels.
- (e) Laboratories using an electronic system for reporting test results to the commissioner shall file test results using one of the following formats:
 - (1) American Standard Code for Information Interchange (ASCII) format;

- (2) Health Language 7 (HL7) format or similar formats as developed by a national coalition on electronic laboratory reporting;
- (3) Microsoft Access;
- (4) Microsoft Excel; or
- (5) Other formats which are compatible with those of the department.

(f) Any laboratory receiving a blood sample for lead analysis from a health care provider or from a referring laboratory shall ensure that the laboratory's requisition slip includes all information required under (d)(1) through (13) above.

(g) Any clinical laboratory not certified in accordance with RSA 130-A:2, I(k) to perform blood lead analyses but which accepts a blood lead sample from a health care provider for referral to a certified laboratory shall ensure that the laboratory requisition slip includes all information required under (d)(1) through (d)(13) above.

(h) Laboratories shall report blood lead test results to the ordering health care provider according to the time frames set forth in He-P 1610.03.

(i) A blood lead specimen report of greater than or equal to 10 micrograms per deciliter on a child shall include a recommendation to the requesting health care provider to refer to the department's Childhood Lead Poisoning Screening and Management Guidelines for follow-up testing.

He-P 1610.03 Time Limit for Reporting.

(a) For children up to 72 months of age, laboratories shall notify the requesting health care provider and the commissioner of the results of any analysis in which the blood lead level is equal to or greater than 45 micrograms per deciliter within one business day of the analysis.

(b) For children up to 72 months of age, laboratories shall notify the requesting health care provider and the commissioner of the results of any analysis in which the blood lead level is equal to or greater than 20 micrograms per deciliter and less than 45 micrograms per deciliter within 3 business days of the analysis.

(c) Such reports to the commissioner shall include the information specified in He-P 1610.02(d).

(d) Except as provided in (a) and (b) above, laboratories shall submit blood lead analyses reports, as required under He-P 1610, within 15 business days of the date of the analysis.

He-P 1610.04 Effect on Other Reporting Requirements.

Nothing in He-P 1610 shall be construed to relieve any laboratory from reporting results of any blood lead analysis to the health care provider that ordered the test, or to any other entity as required by state, federal or local statutes, rules or regulations, except that reporting in compliance with this part shall satisfy the laboratory blood lead reporting requirements of RSA 130-A:3.

PART He-P 1611 LEAD TRAINING PROGRAM STANDARDS

He-P 1611.01 Training Programs.

(a) All training programs that are used to fulfill lead-based substance licensure or certification requirements under He-P 1603 shall:

- (1) Be certified and approved by the department, in accordance with He-P 1611;
- (2) Be accredited by EPA in accordance with 40 CFR Part 745.225 (April 8, 2004 edition); or
- (3) Be certified in an EPA authorized state.

He-P 1611.02 Training Programs Standards.

(a) Training program staff shall include:

- (1) A training manager; and
- (2) A principal instructor.

(b) The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(c) Duties of training program staff shall include the following:

- (1) The training manager shall:
 - a. Monitor and implement the training program's compliance with all the requirements of He-P 1611;
 - b. Ensure that individuals serving as principal instructors or guest instructors for the training program have met the requirements set forth in He-P 1611.03(b) or (c);
 - c. Develop and implement a quality control plan, as described in (e) below, to be used to maintain and improve the quality of the training program; and
 - d. Maintain the validity and integrity of the course test, and hands-on skills assessment to ensure that it accurately evaluates the trainees' knowledge and retention of the course material;
- (2) Principal instructors shall:
 - a. Organize and teach the training program; and
 - b. Maintain professional competency by participation in continuing education or professional development programs in worker safety, training skills, or related lead paint topics at least once annually; and
- (3) Guest instructors may provide instruction in a training program provided that the total contribution of instruction time shall total no more than 30 percent of a training program's hours.

(d) The training manager shall notify the department in writing within 30 days after making any changes in staff, course content, training aids, or training facilities utilized. Such notice shall include documentation of each new instructor's qualifications as set forth in He-P 1611.03.

(e) A quality control program containing the following elements shall be developed and implemented for each training program:

- (1) Procedures for periodic revision of training materials and course test to reflect innovations in the field;
- (2) Procedures for annual review of instructor competency;
- (3) Procedures for administering the training program test and hands-on skills assessment to ensure the validity and integrity of the test, and meet the requirements set forth in He-P 1611.05; and
- (4) Procedures for ensuring that facilities and equipment are adequate for the number of students served and the topics of instruction.

- (f) Records shall be retained of the title of each training program offered, the dates on which the program was provided, and the name, address, and date of birth of each student who successfully completed the program, for a period of 5 years.
- (g) The training provider shall make these records available to the department upon request.
- (h) A representative of the department shall be allowed to monitor and audit each training program and to take the written examination without cost to the department.
- (i) The training provider shall notify the department of the date, time, and location of scheduled training courses at least 5 business days in advance of the courses.

He-P 1611.03 Faculty Qualification Requirements.

- (a) Training managers shall have experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, industrial hygiene or related construction field including at least one of the following:
 - (1) At least 2 years of classroom experience teaching adults;
 - (2) A bachelor's or graduate level degree in building construction technology, engineering, industrial hygiene, safety, or public health, education, business administration, program management or a related field; or
 - (3) A total of 2 years experience in managing or teaching in a training program that specialized in environmental hazards.
- (b) Principal instructors shall meet the following requirements:
 - (1) Have at least one year of classroom experience teaching adults;
 - (2) Completion of at least 16 hours of an EPA-accredited training or a training approved in accordance with He-P 1611, related to the topics to be taught; and
 - (3) Have at least 2 years of experience in the construction trade, including, but not limited to, lead, asbestos or other environmental management fields, painting, carpentry, historic preservation, or renovation and remodeling.
- (c) Guest instructors shall have at least one year of experience in the specific aspect of the topic being presented.

He-P 1611.04 Curriculum and Hands-On Training Requirements.

- (a) All training programs shall meet the following criteria:
 - (1) Training programs shall be specific for each of the disciplines, which requires licensure or certification under He-P 1603;
 - (2) The topics or subjects of instruction shall be presented through a combination of lectures, demonstrations, and hands-on training;
 - (3) Hands-on training shall meet the following criteria:
 - a. All participants shall be provided with the actual experience of performing tasks associated with lead abatement or the lead discipline that is the topic of the course;
 - b. Hands-on training sessions shall maintain a student to instructor ratio of not greater than 10 to 1; and
 - c. The training program shall provide facilities for hands-on training and assessment of students that demonstrate current work practices and actual field conditions;
 - (4) Training programs shall be conducted subject to the following restrictions:
 - a. The total hours required under this section for each discipline shall be completed within a 2-week period;
 - b. Attendees shall not be required to take more than 8 hours of training in a single 24-hour period;

- c. Evening instruction shall not exceed a maximum of 4 hours in any single session; and
 - d. Previous training may be recognized towards the requirements of another discipline if the previous training occurred within the past 12 months; and
- (5) Training programs shall have written procedures for testing students and assessing hands-on skills, as set forth in He-P 1611.05.
- (b) The inspector training program shall meet the following training hour and curriculum requirements:
- (1) The inspector training program shall last a minimum of 24 training hours, which includes a minimum of 8 hands-on training hours;
 - (2) The following topics shall be included in the inspector course in both lecture and hands-on training:
 - a. Lead-based paint inspection methods and requirements;
 - b. Formulating a sampling plan, including techniques for:
 - 1. Computing sample location and size;
 - 2. Selecting the components in each unit to be sampled; and
 - 3. Classification of components;
 - c. Clearance standards and testing, including random sampling;
 - d. The operation and maintenance of the XRF, including:
 - 1. Correcting for substrate interference;
 - 2. Radiation safety;
 - 3. Similarities and differences between the direct and spectrum;
 - 5. Interpretation of the XRF sampling data; and
 - 6. Transportation of XRF analyzers;
 - e. Alternative inspection technologies and methods, including paint chip, soil, and dust sample collection for laboratory analysis;
 - f. Visual assessment of potential sources of lead hazards; and
 - g. Preparation of final inspection report of test results in accordance with the requirements of He-P 1608; and
 - (3) The inspector training program shall contain the following topics:
 - a. Role and responsibilities of a lead inspector;
 - b. The history and recognition of sources of environmental lead contamination including paint, surface dust and soil, water, air, food, and occupational exposure;
 - c. How lead enters the body and the health effects of lead exposure;
 - d. Symptoms of childhood lead poisoning and blood lead levels that indicate lead poisoning;
 - e. Treatment and control of lead exposure hazards;
 - f. An explanation of lead inspection, abatement, and worker safety requirements and regulations under state, local and federal law, including the following:
 - 1. Federal requirements under the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition); and
 - 2. State requirements set forth in He-P 1600;
 - g. Licensing and registration of XRF analyzers;
 - h. Lead-based paint testing operations; and
 - i. Record keeping requirements under He-P 1608.10.
- (c) The risk assessor training program shall meet the following training hours and curriculum requirements:
- (1) The risk assessor training program shall last a minimum of 40 training hours, which shall include a minimum of 12 hands-on training hours;
 - (2) The following topics shall be included in the risk assessor course in both lecture and hands-on training:
 - a. All information taught in the inspector course as listed in (b)(2) above;
 - b. Development and implementation of sampling and analysis guidelines;
 - c. Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards; and
 - d. Interpretation and preparation of inspection reports; and

- (3) The risk assessor training program shall contain the following topics:
- a. All information taught in the inspector course as listed in (b)(3) above;
 - b. Role and responsibilities of a risk assessor;
 - c. Collection of background information as required by He-P 1608.03(b)(1) to perform a risk assessment;
 - d. Development of a LEHRP in accordance with He-P 1608.05, including the development of recommendations to abate or reduce lead-based paint hazards and instruction on when interim controls are appropriate;
 - e. Determining inspection criteria and locations to collect samples in dwellings, dwelling units and child care facilities in accordance with the requirements of He-P 1608;
 - f. Soil sample collection, in accordance with the requirements of He-P 1608.04(b), including the following:
 1. Sources of soil lead exposure;
 2. Soil sample collection techniques;
 3. Number and location of soil samples; and
 4. Interpretation of soil sampling results;
 - g. Dust sample collection in accordance with the requirements of He-P 1608.04(b) and (c) including the following:
 1. Sources of lead dust exposure;
 2. Number and location of samples;
 3. Interpretation of test results; and
 4. Dust sample collection techniques;
 - h. Interpretation of results and preparation of final clearance or risk assessment report, in accordance with the requirements of He-P 1605.15(m) and (n) and He-P 1608.03(c);
 - i. Record keeping requirements under He-P 1608.10;
 - j. Worker protection and worker safety requirements under state law and the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition);
 - k. Cost estimation;
 - l. Construction techniques;
 - m. Abatement and interim control methods;
 - n. Operations and maintenance planning;
 - o. Clean-up and clearance testing requirements under He-P 1605.12 and He-P 1605.15; and
 - p. Waste disposal requirements.
- (d) The lead abatement worker training program shall meet the following training hours and curriculum requirements:
- (1) The lead abatement worker training program shall contain a minimum of 24 training hours, which shall include a minimum of 8 hands-on training hours;
 - (2) The following topics shall be included in the worker course in both lecture and hands-on training:
 - a. Lead exposure hazard recognition and control;
 - b. OSHA worker safety requirements under state law and the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition);
 - c. The use of respiratory and personal protective equipment;
 - d. Prohibited and permissible lead abatement and hazard reduction methods under He-P 1605, including the reduction of lead hazards associated with dust and soil;
 - e. Requirements for controlling lead contamination and maintaining containment systems at work sites including the requirement of He-P 1605.10 and He-P 1605.11; and
 - f. Interior and exterior clean-up methods and final clearance standards as described in He-P 1605.12 and He-P 1605.15; and
 - (3) The lead abatement worker training program shall contain the following topics:
 - a. Role and responsibilities of an abatement worker;

- b. History of lead paint use, and the history and recognition of sources of environmental lead contamination including paint, surface dust and soil, water, air, food, and occupational exposure;
 - c. How lead enters the body and the health effects of lead exposure; and
 - d. An explanation of lead inspection, abatement, and worker safety requirements and regulations under state, local and federal law, including the following topics:
 - 1. Federal requirements under the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition);
 - 2. State requirements set forth in He-P 1600;
 - 3. Safety and health plan;
 - 4. Medical surveillance of worker lead exposure;
 - 5. Engineering and work practices;
 - 6. Personal protective equipment;
 - 7. Respiratory protection programs;
 - 8. Hygiene practices; and
 - 9. Interpreting and responding to lead exposure measurements in the workplace.
- (e) The lead abatement supervisor training program shall meet the following training hours and curriculum requirements:
- (1) The training program shall contain a minimum of 32 training hours, which shall include a minimum of 8 hands-on training hours;
 - (2) Hands-on training shall include:
 - a. All information taught in the abatement worker training program as listed in (d)(2) above;
 - b. Risk assessment and inspection report interpretation;
 - c. OSHA workplace safety as required under state law and the OSHA Lead in Construction Standard, 29 CFR 1926.62 (January 8, 1998 edition); and
 - d. Waste disposal methods and requirements under He-P 1605.14; and
 - (3) The lead abatement supervisor training program shall contain the following topics:
 - a. All information taught in the abatement worker training program as listed in (d)(3) above;
 - b. Role and responsibilities of a lead abatement supervisor under He-P 1603.09(b) and He-P 1605;
 - c. Implementation of a LEHRP;
 - d. Preparation of a lead hazard reduction report as described in He-P 1605.07(f);
 - e. Implementation and supervisory requirements under state and federal worker safety requirements, including:
 - 1. Conducting and interpreting workplace lead exposure measurements and medical monitoring;
 - 2. Developing and implementing a worker safety and health plan;
 - 3. Medical surveillance of worker lead exposure;
 - 4. Engineering and work practices;
 - 5. The use and care of personal protective equipment; and
 - 6. Implementation of a respiratory program in accordance with 29 CFR 1926.103 (January 8, 1998 edition);
 - f. Implementing programs for employee information and training;
 - g. Project management;
 - h. Clearance standards and testing;
 - i. Waste management and disposal requirements;
 - j. Cost estimation;
 - k. Record keeping requirements under He-P 1605.07; and
 - l. Liability and insurance issues related to lead hazard reduction.
- (f) The lead abatement contractor training program shall meet the following training hours and curriculum requirements:
- (1) The training program shall contain a minimum of 32 training hours, which shall include a minimum of 8 hands-on training hours;

- (2) Hands-on training shall include all information taught in the abatement supervisor training program as listed in (e)(2) above; and
- (3) The lead abatement contractor training program shall contain the following topics:
 - a. All information taught in the abatement supervisor training program as listed in (e)(3) above;
 - b. Role and responsibilities of a lead abatement contractor under He-P 1603.09(c) and He-P 1605;
 - c. Development of a LEHRP; and
 - d. Tracking requirements for waste disposal.
- (g) The lead clearance testing technician training program shall meet the following training hours and curriculum requirements:
 - (1) The training program shall contain a minimum of 5 training hours;
 - (2) The training program shall be conducted in accordance with the EPA Lead Sampling Technician (EPA-747-B-00-002, July 2000) training course; and
 - (3) The training program shall contain the following topics:
 - a. Health risks of lead;
 - b. Purpose of lead sampling;
 - c. Understanding federal, and state regulatory requirements for lead clearance and other lead sampling;
 - d. Conducting a visual assessment and correctly identify visible dust, debris, and deteriorated paint;
 - e. Preparing for and collecting dust wipe samples following state and federal lead sampling requirements;
 - f. Selecting an accredited lab and submitting samples; and
 - g. Interpreting the results and preparing an accurate and understandable report of sampling results.

He-P 1611.05 Testing and Completion Certificate.

- (a) At the completion of each training program, program participants shall be provided both a closed book test that meets the requirements of (d) below and a hands-on skills assessment that meets the requirements of (f) and (g) below.
- (b) Both the hands-on assessment and the training program test shall be completed in accordance with the requirements of this section for an individual to pass the training program.
- (c) For each individual who passes the training program, a certificate shall be issued in accordance with the requirements of (h) and (i) below.
- (d) The training program test shall test the trainee's knowledge of all the topics covered during the course.
- (e) Successful completion of the exam shall be demonstrated by the following:
 - (1) For lead inspectors and lead abatement workers, achievement of a score of at least 70% on a written examination consisting of 50 questions specific to the relevant discipline; or
 - (2) For risk assessor, lead abatement supervisor, and lead abatement contractors, achievement of a score of at least 70% on a written examination consisting of 100 questions specific to the relevant discipline.
- (f) The hands-on skills assessment shall test the ability of the trainees to correctly perform all work practices and procedures that were covered in the hands-on training.
- (g) The assessment shall meet the following requirements:
 - (1) The skills of each individual taking the test shall be evaluated for every hands-on training topic covered in the training program;
 - (2) The facility used for assessment shall incorporate actual field conditions and current work practices into the skills assessment; and
 - (3) The individual taking the skills assessment test shall be graded on a pass/fail basis as follows:

- a. A passing grade shall be given to individuals who correctly perform all work practices and procedures assessed in the test; and
 - b. A failing grade shall be given to individuals who do not correctly perform all work practices and procedures assessed in the test.
- (h) A uniquely numbered certificate shall be issued to each student who successfully completes the initial and refresher training program requirements, including the training program test and hands-on training assessment requirements set forth in (d) through (g) above.
- (i) The numbered certificates shall include the following information:
- (1) The name and date of birth of the student;
 - (2) The dates of the training program and the final examination;
 - (3) A statement that the student received a passing score of 70 or greater on the final examination, and successfully passed hands on skills testing;
 - (4) A unique certificate number;
 - (5) The name of the particular training program that the individual completed; and
 - (6) The name, address, and telephone number of the provider of the training program.

He-P 1611.06 Reciprocity Training Program.

- (a) A training program on the provisions of RSA 130-A and He-P 1600 designed to meet the requirements of He-P 1603.02 for individuals seeking licensure through reciprocity shall consist of at least 4 training hours.
- (b) The training program shall include training specifically related to RSA 130-A and He-P 1600 in the following topics:
- (1) Requirements for maintaining licensure and certification;
 - (2) Duties of the respective disciplines;
 - (3) The role of the department in conducting investigations and issuing orders;
 - (4) LEHRPs;
 - (5) Full inspections;
 - (6) Standard inspection protocols;
 - (7) Custom inspection analysis and plans;
 - (8) Allowed abatement methods;
 - (9) Prohibited abatement methods;
 - (10) Provisions for historic properties;
 - (11) Interim control methods and requirements;
 - (12) Compliance inspections;
 - (13) Certificates of compliance, inspection, and lead free;
 - (14) Prohibitions contained in RSA 130-A;
 - (15) Record keeping requirements;
 - (16) Reporting requirements; and
 - (17) Administrative fines for violations of RSA 130-A and He-P 1600.
- (c) Students attending a reciprocity training program shall be given a closed book, multiple-choice examination consisting of 30 questions that covers all of the topics contained in the training program.
- (d) Successful completion of the exam shall be demonstrated by achievement of a score of at least 70 percent.
- (e) Students who pass the course shall be provided with a course completion certificate that meets the requirements of He-P 1611.05(h) and (i).

He-P 1611.07 Refresher Training Programs

- (a) A refresher training program shall consist of at least 8 training hours and include the following topics:
 - (1) A review of the curriculum topics of the full-length courses as appropriate;
 - (2) An overview of the current worker safety and lead safety practices and requirements;
 - (3) An update on federal and state current laws and regulations with regard to lead-based substance activities and occupational safety; and
 - (4) An update on current technologies related to lead-based paint activities.
- (b) Students attending a refresher training program shall be given a closed book, multiple-choice examination of no less than 30 questions that cover all of the topics contained in the training program.
- (c) Successful completion of an exam shall be demonstrated by achievement of a score of at least 70 percent.
- (d) Students who pass the course shall be provided with a course completion certificate that meets the requirements of He-P 1611.05(h) and (i).
- (e) A refresher training program shall not be required for lead clearance testing technicians.

He-P 1611.08 Certification of Training Programs.

- (a) The commissioner shall certify a training program within 120 days of receiving a completed application, which demonstrates that the provider has met the requirements set forth in this part.
- (b) The following documentation shall be submitted to the department at least every 2 years or upon request as proof of meeting such requirements:
 - (1) For each course, reciprocity training, or refresher training, a copy of the course agenda which includes all required training program topics set forth in He-P 1611.04, He-P 1611.06, and He-P 1611.07;
 - (2) A copy of all student manuals, instructor notebooks, and handouts;
 - (3) A description of audiovisual aids and all other course materials;
 - (4) A copy of the format for all course examinations, which shall:
 - a. Describe the proportion of test questions devoted to each major course topic; and
 - b. Provide a detailed description of the procedures for assessment and testing of participants' hands-on skills in all topics required under He-P 1611.04;
 - (5) A description of the hands-on training that will be provided, including the protocol for instruction, the number of students to be accommodated, and the number of instructors;
 - (6) A detailed description of the facilities and equipment available for both lecture and hands-on training;
 - (7) A description of the qualifications of the training manager, principal instructors and work practice instructors, and the topics and skills to be taught by each instructor;
 - (8) An example of the numbered certificates, as described in He-P 1611.05(i), to be issued to students who pass the course;
 - (9) A list of all state and federal agencies that have certified, accredited, or given other forms of approval to the applicant to provide lead training, including the name, address and telephone number of the person, department, or agency giving such approval, and copies of all such written approvals;
 - (10) A copy of the quality control plan as required in He-P 1611.02(e); and
 - (11) The following documentation for each training manager, principal instructor, work practice instructor, and guest instructor currently employed by the applicant:
 - a. Originals or photocopies of licenses, certificates or other documents, which have been issued by another state or jurisdiction;
 - b. Originals or photocopies of official academic transcripts issued by the relevant educational institution; and
 - c. Résumés, or records of work experience.

- (c) A request for certification for reciprocity or refresher training programs shall include:
- (1) The name of the training provider and the address and telephone number of the training provider's principal place of business;
 - (2) Any documentation required under (b) above relevant to the reciprocity or refresher training course that has not been previously provided;
 - (3) A copy of the training program's current certification as required by (d) and (e) below; and
 - (4) A statement, signed by the training program manager, which certifies that the training program meets the minimum requirements established in this part.
- (d) Reciprocity training programs shall only be certified when the training provider has already received certification for at least one other initial training program under He-P 1611.
- (e) Refresher training programs shall only be certified when the training provider has already received certification of an initial training program for the same discipline for which refresher training program certification is being sought.
- (f) The department shall approve or deny an application for reciprocity or refresher training certification within 45 days of receiving said request.
- (g) The department shall provide certification of a training program within 120 days of receiving documentation as set forth in (b) and (c) above.
- (h) In the case of approval of certification, a written certificate shall be sent to the applicant.
- (i) All certifications shall expire one year from the date issued, except when such certification has been revoked by the department pursuant to He-P 1604.02 and He-P 1604.03.
- (j) The following conditions shall apply to all certifications issued under this section:
- (1) The certified training program shall be required to comply with all standards set forth in He-P 1611; and
 - (2) Whenever a training manager becomes aware of any failure to submit relevant facts to the department, or becomes aware of any outdated or incorrect information submitted to the department under He-P 1600, they shall report to the department such facts, corrections, or updated information within 30 days of discovery.

He-P 1611.09 Certificate Revocation. The department shall revoke any training program's certification in accordance with procedures set forth in He-P 1604.

He-P 1611.10 Fee Structure.

- (a) A fee in the amount set forth in this section shall accompany each request for certification of training programs submitted to the department.
- (b) The fee structure for each training program shall be as follows:
- (1) For training providers who request certification for worker, supervisor, and contractor training, the initial fee shall be \$500.00 and each subsequent annual certification shall be \$500.00;
 - (2) For training providers who request certification for the lead clearance testing technician, inspector, and risk assessor training, the initial fee shall be \$500.00 and each subsequent annual certification shall be \$500.00;
 - (3) Except as provided above, training providers shall be charged an initial certification fee of \$500.00 for each training program certified and a \$500.00 fee for each subsequent annual certification; and
 - (4) A training provider shall not be charged for reciprocity or refresher certification.

PART He-P 1612 INVESTIGATIONS

He-P 1612.01 Applicability. Notwithstanding He-P 1612.05(a)-(b), and pursuant to Part 1 Article 28-a of the Constitution of New Hampshire, political subdivisions shall be exempt from the provisions of He-P 1612 unless the subdivisions voluntarily and at their own expense comply.

He-P 1612.02 Requests for Information.

(a) In accordance with RSA 130-A:5, I(a), the commissioner shall require information and periodic reports for the purposes of medical and environmental case management.

(b) Such information shall include but not be limited to the following:

- (1) From a child's health care provider:
 - a. Child's full name;
 - b. Child's date of birth;
 - c. Child's race and ethnicity;
 - d. Child's addresses;
 - e. Names of child's parents or guardians;
 - f. Child's blood lead analysis results;
 - g. Plans for medical management of the child;
 - h. Names of child's siblings;
 - i. Siblings' dates of birth;
 - j. Results of siblings' blood lead analysis;
 - k. Any information available about the child's sources of lead exposure;
 - l. Child's Medicaid number, if enrolled in Medicaid; and
 - m. Any other information pertinent to the management of the child's elevated blood lead level;
- (2) From an owner or owner's agent of a dwelling or dwelling unit:
 - a. Dates of occupancy by the child;
 - b. Whether the child continues to occupy the dwelling or dwelling unit at the time of the request;
 - c. New address of family, if known, when the family has moved or is relocated under RSA 130-A:8a;
 - d. Abatement or interim control measures, if any, to be used at the dwelling or dwelling unit;
 - e. A progress report on abatement or interim controls; and
 - f. Measures taken to protect the child from further exposure to lead;
- (3) From an owner or operator of a child care facility:
 - a. Dates of attendance by the child;
 - b. Number of hours per week that the child attends the facility;
 - c. Whether the child is attending the child care facility at the time of the request;
 - d. Names and ages of other children attending the facility;
 - e. Abatement or interim control measures to be used at the child care facility;
 - f. Progress report on abatement or interim controls; and
 - g. Measures taken to protect the child and other children in the facility from further exposure to lead;
- (4) From a licensed inspector or risk assessor, the results of any inspections conducted at the child's dwelling, dwelling unit, or child care facility, or at any other building associated with the investigation; and
- (5) From a lead abatement contractor involved in lead-based substance abatement or interim controls at the child's dwelling, dwelling unit, or child care facility:
 - a. The date that the abatement or interim control project began; and
 - b. Measures taken to protect the child and other children in the dwelling, dwelling unit, or child care facility from further exposure to lead before and during abatement or interim controls.

He-P 1612.03 Investigative Inspections.

- (a) The commissioner or designee shall carry out the following procedures in addition to the procedures set forth in RSA 130-A:6, when conducting initial inspections as a part of an investigation:
- (1) Obtain relevant information in accordance with He-P 1612.02(b);
 - (2) Contact the child's parent or guardian to schedule the investigation;
 - (3) Arrange access for inspection with the owner or owner's agent;
 - (4) Test representative painted and varnished interior or exterior building surfaces, soil, or dust for the presence of lead-based substances;
 - (5) Record all test results and note whether each identified lead-based substances constitutes a lead exposure hazard;
 - (6) Record the presence of chewed woodwork, including toys and furniture; and
 - (7) Request assistance from a parent or guardian in identifying a child's potential lead exposure, with the aid of a questionnaire which shall include but is not limited to the following information:
 - a. A description of the child's habits that might increase risk of exposure to lead;
 - b. Possible exposure to other sources of lead, such as lead in pottery and parental occupations and hobbies;
 - c. Previous addresses and length of residence;
 - d. A description of other dwellings, dwelling units and child care facilities in which the child spends time; and
 - e. Recent renovations which might have disturbed lead-painted surfaces.
- (b) Excluding initial inspections as described in (a) above, the commissioner or designee shall carry out the following procedures when conducting secondary inspections as a part of an investigation:
- (1) Arrange access for inspections with the owner or owner's agent;
 - (2) Record the resident names and contact information;
 - (3) Test representative painted and varnished interior surfaces, or dust for the presence of lead-based substances;
 - (4) Record all test results and note whether each identified lead-based substances constitutes a lead exposure hazard;
 - (5) Record the presence of chewed woodwork, including toys and furniture; and
 - (6) Record recent renovations which might have disturbed lead-painted surfaces.

He-P 1612.04 Investigative Inspection Reports.

- (a) The department shall prepare written documentation after conducting an investigative inspection.
- (b) The written documentation required in (a) above shall contain, at a minimum, the following information:
- (1) All information obtained in accordance with He-P 1608.01(e)(1)-(17);
 - (2) When provided by residents, the names and occupations of all adults residing at the premises;
 - (3) When provided by the child's parent or guardian, the names, ages, and blood lead levels if available, of all children under the age of 72 months who reside at or are cared for at the premises being inspected; and
 - (4) Findings by the department regarding the existence of a lead exposure hazard, the need for additional testing, and recommended steps to minimize the potential lead exposure hazards.
- (c) The commissioner shall:
- (1) Maintain these records on file for the period of at least 5 years;
 - (2) Provide copies of relevant documents to all persons as designated in RSA 130-A:6, I, II, III, and IV;
 - (3) Remove all blood lead test results and any other confidential information from all documents provided to the owner or owner's agent of a dwelling, dwelling unit, or child care facility, or to the operator of a child care facility as required to comply with confidentiality requirements under RSA 91-A;

- (4) In cases where a lead exposure hazard determination has been made, an order of lead hazard reduction shall be issued or other action shall be taken in accordance with RSA 130-A:5 and RSA 130-A:6; and
- (5) Record all orders of lead hazard reduction with the Registry of Deeds for the county in which the property is situated.

He-P 1612.05 Role of Health Authorities in Investigations.

(a) Health authorities may assist in conducting investigations and inspections under He-P 1600 upon request of the commissioner, in accordance with RSA 130-A:5, II, by providing the following types of assistance:

- (1) Contacting owners or occupants to schedule an inspection;
- (2) Gathering information in accordance with He-P 1612.02(b); and
- (3) Any other assistance requested by the commissioner to aid in conducting the investigation.

(b) Approval of the commissioner shall be given to a health authority for the conduct of an investigative inspection in accordance with RSA 130-A:11, III, upon submission of the following by the health authority to the department:

- (1) A request in writing to the commissioner for approval to conduct investigations;
- (2) Documentation of the applicant's attendance and completion of one of the following:
 - a. An approved training course for lead inspectors; or
 - b. An approved training course for risk assessors;
- (3) Documentation that the health authority meets all of the criteria for field use of a portable XRF in accordance with He-P 1608.04(e); and
- (4) Written assurance that the health authority will:
 - a. Conduct investigations in accordance with RSA 130-A:5 and He-P 1608 and 1612; and
 - b. Submit copies of all inspection related documents, such as inspection results, to the department.

(c) Approval for a health authority to assist in conducting investigations and inspections shall be valid for a period of 12 months.

(d) The commissioner shall renew the approval upon submission of the following by the health authority to the department:

- (1) A request in writing to the commissioner for renewal of approval to conduct investigations;
- (2) When applicable, documentation of attendance and completion by the health authority of an approved lead inspector or risk assessor certified refresher training program in accordance with He-P 1603.07(b)(1)b.;
- (3) Documentation that the health authority meets all of the criteria for field use of a portable XRF in accordance with He-P 1608.04(e); and
- (4) A written assurance that the health authority will conduct investigations in accordance with RSA 130-A:11, He-P 1608, and He-P 1612.

(e) The commissioner shall deny or revoke such approval in accordance with He-P 1604.01(b) and He-P 1604.02(a).

PART He-P 1613 ENFORCEMENT

He-P 1613.01 Applicability.

(a) Any person who is subject to RSA 130-A and He-P 1600 shall be subject to enforcement procedures set forth in He-P 1613.

(b) As set forth in He-P 1613.02 below, violators of RSA 130-A or He-P 1600 shall be subject to:

- (1) Notices of violation or orders requiring lead hazard reduction in accordance with RSA 130-A:7, I and II;
- (2) An injunction under RSA 130-A:17, when he or she fails to comply with enforcement action; and
- (3) Administrative fines under RSA 130-A:14.

(c) Any person aggrieved by the issuance of a notice of violation, order of lead hazard reduction, or notice of administrative fine may appeal such action in accordance with RSA 541-A:31, RSA 130-A:7, III, and He-P 1615.

He-P 1613.02 Issuance of Orders of Lead Hazard Reduction, Notices of Violation, Notices of Lead Exposure Hazards.

(a) In accordance with RSA 130-A:6 and RSA 130-A:7, the commissioner shall issue an order of lead hazard reduction when an investigation performed in accordance with He-P 1612 determines that:

- (1) A lead exposure hazard as defined in RSA 130-A:1 XVI(a), (b), or (c) exists in a dwelling, dwelling unit, or child care facility; or
- (2) A lead exposure hazard as defined in RSA 130-A:1 XVI(d) exists in the following locations:
 - a. Bare soil in a child's play area; or
 - b. Any other areas where the following combination of soil conditions exist:
 1. The total surface area of the bare soil, as defined in He-P 1602.04, is equal to or greater than one square yard, or 9 square feet; and
 2. The soil is located in one or more of the following areas:
 - (i) Drip line/foundation area;
 - (ii) Bare pathways; or
 - (iii) Pet sleeping areas.

(b) When an investigation, performed in accordance with He-P 1612, does not include testing of any or all of the bare soil, an order of lead hazard reduction shall assume that lead exposure as defined in RSA 130-A:1, XVI(d), exists unless analysis in accordance with He-P 1608.04(b) proves otherwise.

(c) Orders of lead hazard reduction issued by the department shall:

- (1) Include the information set forth in RSA 130-A:7, II(a) through II(e);
- (2) Be sent by certified mail;
- (3) Be accompanied by a copy of relevant portions of He-P 1600 and RSA 130-A; and
- (4) Set forth any corrective actions necessary to eliminate the violations.

(d) Notices of lead exposure hazards issued by the department pursuant to RSA 130-A:6, III and IV, shall:

- (1) Include recommended action to be taken to reduce the lead exposure hazards in the property; and
- (2) Be accompanied by a copy of relevant portions of He-P 1600 and RSA 130-A.

(e) Notices of violation issued by the department pursuant to RSA 130-A:7, I, shall:

- (1) Be sent by certified mail;
- (2) Include a statement of all violations; and
- (3) Specify the proposed fines for the violations pursuant to He-P 1614.04, if any.

He-P 1613.03 Procedure for Extension of Period of Lead Hazard Reduction.

(a) Any person who has received an order under RSA 130-A:7, II, may request an extension of the time period for lead hazard reduction as stated in the order by submitting the following to the department at least 5 business days prior to the expiration of the time frame of the order:

- (1) A written detailed explanation for not completing the lead hazard reduction within the time frame ordered;

- (2) A written description on the type of lead hazard reduction planned for each lead exposure hazard including:
- a. The name of the contractor or owner who qualifies under He-P 1603.01 proposed to conduct the lead abatement work;
 - b. The steps taken, if any, to implement the requirements for tenant relocation under RSA 130-A:8-a; and
 - c. The expected time frame for completion of the lead hazard reduction.
- (b) The department shall extend the time period for lead hazard reduction in accordance with RSA 130-A:7, II(c), upon making the determination that the person requesting the extension has good cause for not completing abatement within the time frame ordered.
- (c) Good cause shall include the following:
- (1) Illness;
 - (2) Accident;
 - (3) Death of a family member;
 - (4) The refusal or inability of a tenant to move out within the initial 90 days;
 - (5) Inability to secure financing;
 - (6) The unavailability of equipment, labor, or supplies necessary to complete the abatement due to factors outside of the person's control; or
 - (7) Weather conditions prohibiting lead hazard reduction activities on the exterior.
- (d) Extensions of time for lead hazard reduction granted by the department in accordance with this section shall:
- (1) Be sent by certified mail; and
 - (2) Set forth the department's findings and conditions for granting the extension.
- (e) If, upon completion of the time period stated in the order, or an extended time period approved by the department for lead hazard reduction in accordance with this section, the owner or owner's agent has not complied with the order, the department shall impose an administrative fine in accordance with He-P 1614.
- (f) If after 60 days from the notice of an administrative fine, the owner or owner's agent still has not complied with the order or if the administrative fine has not been paid, the department shall seek injunctive relief in accordance with RSA 130-A:7, III.

He-P 1613.04 Process for Variances Requests and Interim Controls Requests.

- (a) Any person may request the use of encapsulants pursuant to He-P 1605.09(a), alternative abatement methods pursuant to RSA 130-A:10, VIII, or He-P 1605.02, or a variance from compliance with one or more provisions of RSA 130-A or He-P 1600 pursuant to RSA 130-A:10, XV.
- (b) Such a request shall be submitted to the department in writing and include the following information:
- (1) The specific reference to the act or rule(s) for which the request is being made;
 - (2) A full explanation of the reason for the request;
 - (3) A specific description of what is being requested, including an explanation of how any alternative plan will:
 - a. Satisfy the intent of the act and rule(s); and
 - b. Protect residents and the public from exposure to any lead hazards;
 - (4) The anticipated length of time the variance will be needed;
 - (5) A description of how the health and safety of children and adult occupants will be affected; and
 - (6) If appropriate, a detailed work plan which includes:
 - a. Action to be taken to address the lead exposure hazards;

- b. Measures to be taken to ensure the protections of workers, occupants and the general public;
 - c. Measures to be taken to contain the lead debris and prevent its release into the environment; and
 - d. Anticipated start and end work dates.
- (c) Prior to submission, the person making the request shall notify all residents and other persons affected by the variance by:
- (1) Providing a copy of the request, and
 - (2) Notifying them of their right to contact the department with any questions or concerns.
- (d) The commissioner shall deny a request when any of the following are true:
- (1) The person making the request has been found in violation of one or more provisions of He-P 1600 or RSA 130-A;
 - (2) The department finds that approval of the request will jeopardize the health and safety of others; or
 - (3) The department finds that the requested plan does not satisfy the intent of the rules as an alternative to complying with the rule(s).
- (e) If a variance is approved, compliance with the approved variance shall ensure that the objective or intent of the rules from which the variance is sought will be accomplished.
- (f) No request for a variance concerning the rules of other state agencies or other regulations referred to in this chapter shall be accepted.
- (g) The commissioner shall revoke a variance when it is found that:
- (1) The person making the request has been found in violation of one or more provisions of He-P 1600 or RSA 130-A;
 - (2) The work is not done in accordance with the plan approved by the commissioner;
 - (3) The work is not protective of the workers, occupants, or the general public; or
 - (4) The work does not adequately address the lead exposure hazards.
- (h) An owner may request the use of interim controls for a period exceeding 2 years for a dwelling unit of a multi family dwelling where no child resides or frequents 10 hours or more a week at the time of inspection and issuance of the order.
- (i) Pursuant to (h) above, the person making the request shall provide a written statement to the department declaring financial hardship including the failure to secure financing and number of dwelling units as the reasons for the inability to obtain a certificate of compliance for abatement within 2 years.
- (j) The department shall revoke the use of interim control exceeding 2 years when the owner fails to maintain a current certificate of compliance.

He-P 1613.05 Compliance Inspections.

- (a) The commissioner or designee shall conduct compliance inspections for the purposes of verifying compliance with the requirements of RSA 130-A and He-P 1600, in accordance with the authority and procedures set forth in RSA 130-A:6, V.
- (b) In conducting compliance inspections, the commissioner or designee shall use the following procedures:
 - (1) Upon request, present credentials indicating the authority to conduct such inspections to the owner, agent, tenant, lead abatement contractor, abatement supervisor, lead inspector, risk assessor, training manager, or laboratory commissioner;
 - (2) Inspect the property or premises to determine compliance with He-P 1600;
 - (3) When necessary to determine the presence of lead-based substances or a lead exposure hazard, obtain representative samples of surface coatings, fixtures, soils, or other materials;
 - (4) Take photographs, if necessary, to document the conduct of lead inspection or abatement activities; and

- (5) Inspect and, if necessary, obtain a copy of any lead inspection reports, records of employee licensure or certification, or other documents required under RSA 130-A or He-P 1600.
- (c) After completing a compliance inspection, the commissioner or designee shall:
- (1) Prepare a written report detailing the findings of the inspection, which contains the following information:
 - a. The date of the compliance inspection;
 - b. The name of the owner, agent, tenant, lead abatement contractor, abatement supervisor, lead inspector, risk assessor, training manager, or laboratory commissioner to whom credentials were presented;
 - c. The name of the department staff conducting the compliance inspection;
 - d. Findings of the compliance inspection;
 - e. Results of any testing or analysis conducted on collected samples;
 - f. All photographs taken during the compliance inspection; and
 - g. Copies of all records, reports, or other documents copied during the compliance inspection;
 - (2) Maintain the report on file for a period of 5 years;
 - (3) Provide copies of the report, upon request to the owner or owner's agent, manager, operator of the child care facility, occupant, risk assessor, inspector, lead abatement contractor, laboratory commissioner, training manager, or other party; and
 - (4) Take other enforcement actions as authorized under RSA 130-A:5, RSA 130-A:6, RSA 130-A:7, RSA 130-A:14, RSA 130-A:16, and RSA 130-A:17.

PART He-P 1614 ADMINISTRATIVE FINES

He-P 1614.01 Persons Subject to Fines.

Those persons found to be in violation of RSA 130-A and He-P 1600 shall be fined in accordance with this part.

He-P 1614.02 Administrative Fines.

- (a) Notice of administrative fines shall be sent to the person named in the notice in accordance with RSA 130-A:14.
- (b) The notice of administrative fines shall include:
- (1) A statement of the violation(s);
 - (2) The amount of the fine; and
 - (3) A statement of the person's rights and options pursuant He-P 1615, He-P 1614.03, and He-P 1614.04.

He-P 1614.03 Payment of Fines.

- (a) A person may appeal the notice of administrative fine as set forth in He-P 1615.
- (b) A person may waive the right of appeal of the notice of fine and pay the fine within 10 business days of the date of receipt of notice of the proposed fine.
- (c) In all other cases, fines shall be paid within 10 business days of the date of the decision as a result of a hearing, if the fine is upheld.
- (d) Payment shall be made by personal or certified check, or money order made payable to "Treasurer, State of New Hampshire", or by cash.

He-P 1614.04 Schedule of Fines.

(a) Fines for violations of the provisions of RSA 130-A and He-P 1600 shall be imposed pursuant to the provisions of RSA 130-A:14 and He-P 1614.

(b) Administrative fines shall be levied by the commissioner for the violations listed and in the amounts specified in Table 1614.1 below:

Table 1614.1 Schedule of Administrative Fines

Violation No.	Violation	Fine
	Certification/License	
1.	Willful submission of false or fraudulent information on or with an application	\$250.00
2.	Falsification of a lead abatement contractor license	\$1,000.00
3.	Falsification of a lead abatement supervisor certificate	\$500.00
4.	Falsification of a lead abatement worker or lead clearance testing technician certificate	\$250.00
5.	Falsification of a risk assessor license	\$1,000.00
6.	Falsification of a lead inspector license	\$500.00
7.	Falsification of approval of lead training courses by a training provider	\$1,000.00
8.	Falsification of a laboratory certification	\$1,000.00
9.	Failure to notify the department within 30 days of changes in the names and addresses of the responsible corporate departments of the company	\$250.00
10.	Working without a lead abatement contractor's license in violation of He-P 1603.06(a)	\$1,000.00
11.	Working without a lead abatement supervisor certificate in violation of He-P 1603.05(a)	\$500.00
12.	Working without a lead abatement worker or a lead clearance testing technician certificate in violation of He-P 1603.05(a)	\$250.00
13.	Working without a risk assessor license in violation of He-P 1603.07(a)	\$1,000.00
14.	Working without a lead inspector license in violation of He-P 1603.07(a)	\$500.00

15.	Conducting blood lead analysis on residents of New Hampshire without laboratory certification	\$1,000.00
Work Practice		
16.	Failure to notify the department of intended start and end work dates in accordance with He-P 1605.05	\$250.00
17.	Failure to maintain at the work site, the documentation required under He-P 1605.07	\$200.00
18.	Failure to control access in accordance with He-P 1605.06	\$500.00
19.	Failure to ensure the maintenance of an accurate record of individuals entering and exiting a lead abatement work area	\$200.00
20.	Employing uncertified or unlicensed persons to perform lead abatement activities	\$1,000.00
21.	Failure of a contractor or owner who qualifies under He-P 1603.01 to remain on site or available whenever lead abatement activities are being carried out	\$300.00
22.	Failure of a supervisor to remain on site whenever lead abatement activities are being carried out	\$300.00
23.	Failure to comply with worker safety and respiratory protection requirements	\$500.00
24.	Improperly preparing the work area in a manner which results in the escape of lead contaminated materials	\$500.00
25.	Failure to contain lead-based substances or lead contaminated material in the work area	\$500.00
26.	Failure to provide for the safety of the buildings occupants during lead hazard reduction activities	\$1,000.00
27.	Failure to dispose of waste in accordance with He-P 1605.14	\$1,000.00
28.	Failure of a lead abatement contractor to keep all business and personnel records of all lead projects for 5 years	\$200.00
29.	Failure by a laboratory to report results of blood lead analysis in accordance with He-P 1610	\$200.00
30.	Failure by a training program to maintain training records pursuant to He-P 1611.02(f) for a period of 5 years	\$500.00
31.	Falsification of a lead inspection dust clearance testing report	\$2,000.00

Compliance with an Order or Violation

32.	Failure to comply with an abatement order	\$1,000.00
33	Conducting lead hazard reduction activities without a LEHRP	\$250.00
34.	Falsification of a certificate of compliance or certificate of lead free	\$2,000.00
35.	Knowingly renting for residential purposes, a unit under order by the commissioner for lead hazard reduction, without a valid and current certificate of compliance	\$2,000.00
36.	Knowingly renting a unit found by the commissioner or health authority to contain a lead exposure hazard when such unit is occupied by a child	\$2,000.00
37.	Failure by an owner to keep all lead hazard reduction records for a period of 5 years	\$200.00
38.	Failure to disclose in writing the existence of an order of lead hazard reduction upon sale, or transfer of interest of the property	\$1,000.00
39.	Failure to pay a fine	\$250.00
40.	Failure by an owner or owner's agent to allow access or arrange access to a dwelling or dwelling unit, or all units within a multi family dwelling, for purposes of investigation	\$500.00

(c) For repeat violations, and violations which have not been remedied within 30 days of notice of the first violation, fines shall be levied as specified in Table 1614.2 below:

Table 1614.2 Administrative Fines for Repeat Violations

	<u>Repeat or Continued Violations</u>	<u>Fine</u>
(1)	Second Violation or violations not remedied within 30 days	Double the Original Fine, not to exceed \$2,000.00
(2)	All subsequent repeat violations or violations that have not been remedied after 90 days	\$2,000.00

PART He-P 1615 APPEALS

He-P 1615.01 Appeals Procedures.

(a) Persons who wish to appeal a decision, order, or notice issued by the department pursuant to RSA 130-A and He-P 1603, He-P 1604, He-P 1612, or He-P 1613 shall make a request for a hearing in compliance with the following:

- (1) The request for a hearing shall be made within 10 business days of the date of receipt of the following from the department:
 - a. A decision to deny an initial application;

- b. A decision to revoke a license or certificate;
 - c. An order of lead hazard reduction;
 - d. An order for corrective action;
 - e. A notice of violation; or
 - f. A notice of administrative fines; and
- (2) The request shall be in writing and signed by the persons named in the order or notice.

(b) The hearing shall be conducted in accordance with the provisions of He-C 200.

(c) The notice, order, or decision of the commissioner shall become final if the applicant, licensee, certificate holder, or other person named in the decision, notice, or order fails to request an adjudicative hearing within 10 days of receipt of the department's decision, order, or notice.

Appendix

Rule	Specific State Statute which the Rule is Intended to Implement
He-P 1601	RSA 130-A:2, I(d); RSA 130-A:11, I; 15 USC 2681-2692; 42 USC 4821-4856
He-P 1602.01 – 1602.32	RSA 130-A:2, I(d); RSA 130-A:11, I; 15 USC 2681-2692; 42 USC 4821-4856
He-P 1602.33	RSA 130-A:2, I(d); RSA 130-A:11
He-P 1603-1604	RSA 130-A:2, I(a)-(c); RSA 130-A:9, V and VI; RSA 130-A:10, I, II and IV; RSA 130-A:12; 15 USC 2682
He-P 1605.01-1605.04 He-P 1605.06-1605.16	RSA 130-A:9, I and VI; RSA 130-A:10, VIII and XIV; 15 USC 2682
He-P 1605.05	RSA 130-A:9, I and VI; RSA 130-A:10, VIII and XIV; RSA 130-A:13; 15 USC 2682
He-P 1606.01	RSA 130-A:9, I; RSA 130-A:10, VII; 15 USC 2682
He-P 1606.02-1606.07	RSA 130:9, I; RSA 130-A:10, VII, VIII; 15 USC 2682; 42 USC 4852c
He-P 1606.08	RSA 130-A:9, II; RSA 130-A:10, III; 15 USC 2682; 42 USC 4852c
He-P 1606.09	RSA 130:9, I; RSA 130-A:10, VII, VIII; 15 USC 2682; 42 USC 4852c
He-P 1607	RSA 130:9, I; RSA 130-A:10, VII, VIII; 15 USC 2682; 42 USC 4852c
He-P 1608	RSA 130-A:9, II; RSA 130-A:10, III; 15 USC 2682; 42 USC 4852c

He-P 1609	RSA 130-A:2, I(k); RSA 130-A:3; RSA 130-A:10, XIII; RSA 130-A:12, IV
He-P 1610	RSA 130-A:2, I(j); RSA 130-A:10, XII
He-P 1611	RSA 130-A:2, I(h); RSA 130-A:9, VII; RSA 130-A:10, XI; RSA 130-A:12, III; 15 USC 2682
He-P 1612	RSA 130-A:2, I(i); RSA 130-A:5; RSA 130-A:6; RSA 130-A:10, V
He-P 1613.01-1613.03, 1613.05	RSA 130-A:2, I(i); RSA 130-A:7; RSA 130-A:10, VI
He-P 1613.04	RSA 130-A:10, VIII; and RSA 130-A 10, XV
He-P 1614	RSA 130-A:10, VII; RSA 130-A:10, IX, X; RSA 130-A:16
He-P 1614.04(b)	RSA 130-A:10, VII; RSA 130-A:10, IX, X: RSA 130-A:16
He-P 1615	RSA 130-A:13